

VERBATIM**RECORD OF TRIAL¹**

(and accompanying papers)

of

MANNING, Bradley E.

(Name: Last, First, Middle Initial)

[Redacted]
(Social Security Number)

PFC/E-3

(Rank)

Headquarters and

Headquarters Company,

United States Army Garrison

(Unit/Command Name)

U.S. Army

Fort Myer, VA 22211

(Branch of Service)

(Station or Ship)

By

GENERALCOURT-MARTIAL

Convened by

Commander

(Title of Convening Authority)

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

(Unit/Command of Convening Authority)

Tried at

Fort Meade, MD

on

see below

(Place or Places of Trial)

(Date or Dates of Trial)

Date or Dates of Trial:

23 February 2012, 15-16 March 2012, 24-26 April 2012, 6-8 June 2012, 25 June 2012,
 16-19 July 2012, 28-30 August 2012, 2 October 2012, 12 October 2012, 17-18 October 2012,
 7-8 November 2012, 27 November - 2 December 2012, 5-7 December 2012, 10-11 December 2012,
 8-9 January 2013, 16 January 2013, 26 February - 1 March 2013, 8 March 2013,
 10 April 2013, 7-8 May 2013, 21 May 2013, 3-5 June 2013, 10-12 June 2013, 17-18 June 2013,
 25-28 June 2013, 1-2 July 2013, 8-10 July 2013, 15 July 2013, 18-19 July 2013,
 25-26 July 2013, 28 July - 2 August 2013, 5-9 August 2013, 12-14 August 2013,
 16 August 2013, and 19-21 August 2013.

¹ Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)² See inside back cover for instructions as to preparation and arrangement.

1 A. I still continued to do the target analyst job.

2 Q. Did you still have Specialist Showman working for you?

3 A. She was still in the SCIF and we were working together to
4 continue the targeting mission that we had.

5 Q. During your entire time did you ever get information you
6 needed from the S-2 section?

7 A. Yes.

8 Q. And when was that?

9 A. Over the course of the 4 months that I worked in the SCIF
10 itself we still received reporting. It wasn't that we weren't
11 getting any reporting. Every once in a while we would get something
12 that was relevant to what we were doing.

13 Q. Now, I want to ask you about your experience. You tell me
14 if you are or not. Are you experienced with looking at intelligence
15 products?

16 A. I am.

17 Q. Are you familiar with intelligence terms?

18 A. Yes.

19 Q. Do you know what an intelligence gap means?

20 A. An intelligence gap to me is information that we do not
21 currently have. It's lacking at that point.

22 CDC[MR. COOMBS]: Thank you, Chief.

23 MJ: Redirect?

1 ATC[CPT WHYTE]: We have no questions, Your Honor.

2 **[The witness was duly warned and withdrew from the courtroom.]**

3 CDC[MR. COOMBS]: Ma'am, I'm sorry. It might have been said
4 and I just missed it. Is he a permanent excusal?

5 MJ: No, I temporarily excused him. Do the parties want him
6 permanently excused?

7 CDC[MR. COOMBS]: I'd like to have him permanently excused
8 just because he is OCONUS, ma'am.

9 TC[MAJ FEIN]: The United States would request temporary for
10 him, ma'am. We'll keep him up to date.

11 MJ: Why don't we -- let's go temporarily.

12 TC[MAJ FEIN]: United States asks for a 10-minute recess in
13 order to get classified information out.

14 MJ: The Court is in recess.

15 **[The court-martial recessed at 1420, 5 June 2013.]**

16 **[The court-martial was called to order at 1433, 5 June 2013.]**

17 MJ: The Court is called to order. Let the record reflect all
18 parties present when the court last recessed are again present in
19 court.

20 Are the parties ready to proceed?

21 ATC[WHYTE]: Yes, ma'am.

22 CDC[MR. COOMBS]: Yes, Your Honor.

23 ATC[CPT WHYTE]: The United States calls Captain Casey Fulton.

1 CAPTAIN CASEY FULTON, U.S. Army, was called as a witness for the
2 government, was sworn and testified as follows:

3 DIRECT EXAMINATION

4 Questions by the assistant trial counsel [CPT WHYTE]:

5 Q. You are Captain Casey Fulton?

6 A. Yes.

7 Q. Captain Fulton, what is your current position?

8 A. I'm an intelligence observer coach trainer.

9 Q. Where are you stationed?

10 A. At the Joint Multinational Training Center in Hohenfels,
11 Germany.

12 Q. What are your responsibilities in that position?

13 A. I coach, train rotational units through scenario based
14 training exercises.

15 Q. How long have you been in that position?

16 A. Ten months.

17 Q. And what is your branch?

18 A. Intelligence, military intelligence.

19 Q. How long and military intelligence officer?

20 A. Seven-and-a half years.

21 Q. What initial training did you receive to become an MI
22 officer?

1 A. I went to the Intelligence Officer Basic course and I went
2 to the Military Intelligence Captains Career course.

3 Q. After the basic course, what was your first assignment?

4 A. I was assigned to 508th STB 4th Brigade 82d Airborne.

5 Q. And what happened when you arrived at Fort Bragg?

6 A. I was deployed immediately to Afghanistan.

7 Q. How long was this deployment?

8 A. One year.

9 Q. What was your position during that deployment?

10 A. I was an assistant S-2 for the battalion.

11 Q. What were your responsibilities in that position?

12 A. My primary responsibilities were collection management, and
13 current operations.

14 Q. So after that year what happened next, you redeployed?

15 A. Yes, I redeployed to Fort Bragg, and then I became a
16 platoon leader in the MI Co.

17 Q. What is the MI Co?

18 A. The MI Company.

19 Q. MI, military intelligence company?

20 A. Correct.

21 Q. How long were you at Bragg after you redeployed?

22 A. About 9 months.

23 Q. And what happened after those 9 months?

1 A. I got orders to go to the MI Captains Career course.

2 Q. How long was that Captains Career course?

3 A. Four to five months.

4 Q. What type of training did you receive at the Captains
5 Career Course?

6 A. We learned how to do the mission analysis portion of the
7 MDMP. We did -- we covered all the different types of intelligence
8 disciplines, handling classification information, collection
9 management.

10 Q. Can you explain to the Court what the mission analysis is?

11 A. It's step 2 of the military decision-making process.

12 Q. What does that consist of?

13 A. Step 2 is where the staff gathers all the information and
14 conducts analysis on the current conditions of the operating
15 environment.

16 Q. Is that the intel portion of the MDMP?

17 A. Yes. It's a big focus for the Intel section.

18 Q. What was your first assignment out of the Captain Career
19 Course?

20 A. To 2nd Brigade 10th Mountain.

21 Q. When did you arrive at Fort Drum?

22 A. September 2009.

1 Q. Let's talk about your time at Fort Drum in garrison. What
2 was your position when you arrived at Fort Drum?

3 A. I was the S-2 plans.

4 Q. And how long were you the S-2 plans in garrison?

5 A. I was the S-2 plans for about 2 weeks before the unit
6 started to deploy.

7 Q. Where did you work at Fort Drum?

8 A. In the SCIF.

9 Q. How do you know PFC Manning?

10 A. He also worked in the S-2 section in the SCIF.

11 Q. So what were your responsibilities as S-2 plans officer in
12 garrison?

13 A. I was creating the intelligence portion of the operations
14 order for the deployment operations order.

15 Q. And what is the operation order for the deployment?

16 A. It was basically the order that was going to get us into
17 theatre. The focus would have been force array once we got into
18 theatre.

19 Q. What type of information was included in the intel portion
20 of this order?

21 A. The enemy threat for the area that we were assuming.

22 Q. And who helped you create this portion of the OPORD?

1 A. PFC Manning helped, Sergeant -- Mr. Balonek helped, Mr.
2 Ehresman helped. That was about it.

3 Q. How did PFC Manning help you with this?

4 A. He gave me a base of knowledge on all the enemy threat
5 groups when I first got there so I could get started.

6 Q. For the intended -- the threat groups for the intended AO?

7 A. Yes.

8 Q. How long were you at Fort Drum again?

9 A. I was only there a month and a half before I deployed, but
10 I was only there 2 weeks before the unit started to deploy.

11 Q. And where did you deploy to?

12 A. FOB Hammer, Iraq.

13 Q. Do you remember when you deployed?

14 A. November 2009.

15 Q. And did PFC Manning deploy as well to Hammer?

16 A. Yes, he did.

17 Q. What section within FOB Hammer did you work?

18 A. I was in the S-2 plans in the S-2 section.

19 Q. Can you describe how the S-2 section was organized at FOB
20 Hammer?

21 A. We had a Current OPs section, which was in the tactical
22 operations center. We had the S-2 plans, which consisted of myself.
23 We had a fusion cell, which had most of the analysts, the rest of the

1 shop with the exception of one analyst that was assigned to Chief
2 Hack, who was part of the targeting section. We also had an S-2X,
3 which is the HUMINT cell, and a SIGNET section.

4 Q. You said there was a Current OPs section. What is current
5 operations?

6 A. They handle all the current operations within an 96 hour
7 window.

8 Q. And you said you were plans, so what was your focus?

9 A. Anything beyond 96 hours. I would be doing all the long
10 term plans, the intel portions of the OP orders for long term
11 operations.

12 Q. How did the fusion cell fit in in the S-2 section?

13 A. When we do mission analysis, you create a running estimate.
14 The fusion cell is constantly updating that running estimate. That's
15 what we do on a daily basis for intel. It feeds current operations,
16 plans and targeting.

17 Q. Where did you work when you were at FOB Hammer?

18 A. In the SCIF.

19 Q. Where did PFC Manning work?

20 A. In the SCIF.

21 Q. Let's talk about the SCIF just really quickly. Who had
22 access to the SCIF at FOB Hammer?

1 A. The S-2 section, the whole S-2 section, Chief Hack and we
2 had civilian contractors.

3 Q. So how did you know if someone had access to the SCIF or
4 not?

5 A. Well, we all knew each other within our respective areas.
6 We all worked in the same room. They're on an access roster. They
7 have the code to get in the door.

8 Q. What is -- what's an access roster?

9 A. It's a memorandum that lists all the individuals that have
10 access to the SCIF.

11 Q. So what happened if someone who was not on the access
12 roster needed to enter the SCIF?

13 A. It would depend on what classification or clearance they
14 hold, but everyone in the SCIF would be notified that a person was
15 coming in and, if necessary, the area would be sanitized to the
16 proper level of clearance that they had authorization for.

17 Q. So what do you mean by sanitize?

18 A. If they don't have authorization to view classified
19 material, it would be put out of site, computers would be turned off,
20 or at least the monitors would be turned off so nothing was showing
21 so they could inadvertently have access to information they
22 shouldn't.

23 Q. Who was responsible for sanitizing the SCIF?

- 1 A. All of us.
- 2 Q. How often did this happen?
- 3 A. We did have people come in frequently that only had a
- 4 Secret clearance, but anything beyond that only happened very rarely.
- 5 Q. Which networks did PFC Manning have access to at FOB
- 6 Hammer?
- 7 A. SIPR and NIPR.
- 8 Q. Can you explain the use of SIPRNET in garrison versus in
- 9 theatre?
- 10 A. In theatre it's a primary method of communication, SIPR is,
- 11 while NIPR is the primary method of communication in garrison.
- 12 Q. What classification level is information on SIPRNET?
- 13 A. Secret.
- 14 Q. What's the presumption of information on SIPRNET?
- 15 A. If it's not marked, that it's Secret.
- 16 Q. And how do you know that?
- 17 A. Because it is rule of thumb to assume a higher
- 18 classification.
- 19 Q. Was -- how do you know that that's the general rule?
- 20 A. Training.
- 21 Q. Was PFC Manning authorized to remove classified information
- 22 for personal use?
- 23 A. No.

1 Q. Was PFC Manning authorized to give classified information
2 to WikiLeaks?

3 A. No.

4 Q. Why not?

5 A. Because you're not allowed to disclose information to
6 individuals who do not have authorization to view that type of
7 material.

8 Q. What was your position when you arrived at FOB Hammer?

9 A. I was still in the S-2 plans.

10 Q. And in theatre what were you responsibilities?

11 A. As the S-2 plans?

12 Q. Yes.

13 A. Well, I did the intelligence portion for the operations
14 orders that we created.

15 Q. And what type of operation orders were you creating?

16 A. The first one that I did was for election security, which
17 is our main focus while we were there. I also did the intel portion
18 for the transition and withdraw, base closures.

19 Q. So what type of information was included in the intel
20 portion of the election security OPORD?

21 A. Information on the Iraqi elections, how they were going to
22 be conducted, political groups, as well as historical data on what

1 has happened in the past during the elections and also current enemy
2 activity.

3 Q. How many intelligence analysts worked for in S-2 plans,
4 work solely for you?

5 A. None.

6 Q. So who assisted you in creating some of this work product?

7 A. Well, I had to request assistance from the analyst. So it
8 was generally either PFC Manning or Sergeant -- Mr. Balonek.

9 Q. So how did PFC Manning specifically help you in
10 accomplishing your mission?

11 A. I gave him projects that focused on collecting, gathering a
12 whole bunch of data, organizing it, and displaying it on the map.

13 Q. Why did you ask him specifically?

14 A. Because he was good with computers. He could get it done
15 quicker.

16 Q. What type of information was he pulling for you?

17 A. Significant activities, enemy SIGACTs.

18 Q. Do you remember what type of SIGACTs he was pulling?

19 A. No. I mean, we specifically usually focused on IEDs, small
20 arms, firearms and indirect fire. Those are the three big ones, but
21 we also focused on VBIEDs because of the elections.

22 Q. After you pulled this information, what would PFC Manning
23 do next?

1 A. He'd pull it. He would organize it, sort it, and then,
2 like I said, he would put it on the map so it was represented
3 visually.

4 Q. And what is the purpose of putting this information on a
5 map?

6 A. That way you could conduct analysis based on the patterns,
7 the engagement areas that are represented.

8 Q. What type of analysis on -- what type of analysis?

9 A. Yes. I mean, we do pattern analysis in order to identify
10 enemy activity.

11 Q. What would you do with the work product you received from
12 PFC Manning?

13 A. It was incorporated into product that I was working on and
14 then it was presented to the commander so that he could give guidance
15 on a course of action to be developed.

16 Q. Did you brief the commander?

17 A. Yes.

18 Q. How often?

19 A. About maybe once a week, once every 2 weeks. It depended.

20 Q. During deployment what additional responsibilities did you
21 take on?

22 A. I was eventually -- I was counseled as the assistant S-2.

23 Q. Do you remember when this happened?

1 A. February.

2 Q. Can you explain a specific task you delegated to PFC
3 Manning when you were the assistant S-2?

4 A. Yeah. The -- another staff section required -- they wanted
5 all the significant activity that occurred while we were in theatre
6 compiled in order to see whether the events had decreased or
7 increased while we were there. So he did trend analysis on all those
8 SIGACTs.

9 Q. What was the purpose of this project?

10 A. It -- essentially to see whether SIGACTs had increased or
11 decreased while we were there in theatre, whether we had made an
12 impact on the environment.

13 Q. Let's move on to another subject. Are you familiar with
14 the Apache video?

15 A. Yes.

16 Q. When did you first watch the Apache video?

17 A. It was early on the in deployment. It would be in the
18 December time frame maybe.

19 Q. Where did you see it?

20 A. It was displayed on Showman's computer.

21 Q. In the SCIF?

22 A. Yes.

23 Q. On what network was the video?

1 A. SIPR.

2 Q. When did you go on R and R?

3 A. April.

4 Q. What happened when you returned from R and R?

5 A. I had asked the individuals in the shop if they had seen
6 the video that had been put out on the news.

7 Q. And how did PFC Manning react?

8 A. He came up to me after I discussed it with the Soldiers in
9 the shop and told me that he thought that that was the same video we
10 had on our shared drive.

11 Q. What did he do next?

12 A. Well, I told him I didn't think it was the same video
13 because it had obviously been edited, so it didn't look the same when
14 I saw it. I said, "No, I would have to see both videos in order to
15 make that determination." He sent me an e-mail with a link to those
16 videos clips -- two video clips that were labeled as the one on our
17 share drive and the one that was in the media so that I could see
18 both of the video clips.

19 Q. And obviously when you're talking about -- this email -- on
20 what network was this email sent?

21 A. SIPR.

1 Q. So when we're talking about this email obviously in an
2 unclassified setting, given our setting here. Do you remember
3 receiving this email?

4 A. Yes.

5 Q. And can you explain what this email consisted of again?

6 A. A hyperlink to the share drive.

7 Q. What did you do when you received this email?

8 A. I clicked on the link and I watched the videos and I
9 responded to them via email, surprised that it was the same --
10 admitting that I was surprised to see that it was the same video.

11 Q. How long after watching the video did you send this email?

12 A. Immediately. I think.

13 ATC[CPT WHYTE]: Your Honor, at this time we would offer into
14 evidence what has been marked as Prosecution Exhibit 55 for
15 Identification.

16 CDC[MR. COOMBS]: No objection, Your Honor.

17 MJ: All right.

18 ATC[CPT WHYTE]: And also at this time, Your Honor, we'd
19 offer Prosecution Exhibit 56 for Identification.

20 CDC[MR. COOMBS]: Again, no objection, Your Honor.

21 MJ: Okay. I'll mark them at the recess.

22 **Questions continued by the assistant trial counsel [CPT WHYTE]:**

23 Q. When did you redeploy to Drum?

1 A. July of 2010.

2 Q. Did you work in the S-2 shop for the entire deployment?

3 A. Yes.

4 Q. Did PFC Manning work in the S-2 shop for the entire
5 deployment?

6 A. Until I had to have him removed, yes.

7 Q. Do you remember approximately on what date PFC Manning ----

8 A. April. Late April, maybe early May.

ATC [CPT WHYTE]: Thank you. We have no more questions.

CROSS-EXAMINATION

11 Questions by the civilian defense counsel [MR. COOMBS]:

12 Q. How are you doing, Captain Fulton?

13 A. I'm good.

14 Q. Good. Just a few questions for you. I want to start off
15 by asking you about something the government talked about when you
16 first arrived at the unit. Okay?

17 A. Okay.

18 Q. And that was you were putting together an OP order for your
19 brigade?

20 A. Correct.

21 Q. And that OP order was basically to define the purpose of
22 the S-2 operations in relation to the brigade's mission; is that
23 right?

1 A. Yes, and the operating environment we were going to.

2 Q. And as part of that process then you would consider the
3 operation, the end state with respect to the relationship among the
4 force and also the enemy and the terrain; is that right?

5 A. Correct.

6 Q. And during that time there was minimal SIPRNET access
7 available?

8 A. That's correct.

9 Q. So you first went to the First Lieutenant Elizabeth Fields
10 to get a picture of the enemy?

11 A. Yes.

12 Q. And you needed that picture of that enemy as part of your
13 OP order?

14 A. Correct.

15 Q. When you say a picture of the enemy, you mean basically
16 kind of a general overall impression of the enemy that was operating
17 within your area of operation?

18 A. Yes. Specifically, I was looking for the enemy threat
19 groups that were operating within our environment.

20 Q. Okay. So it was the different basically insurgent threat
21 groups as opposed to the enemy in general?

22 A. Correct.

1 Q. And you basically wanted to determine the location, the
2 known location, of enemy operations?

3 A. Yes.

4 Q. And you wanted to determine the last known activity of the
5 enemy?

6 A. Yes.

7 Q. Basically is he attacking, is he retreating, defending,
8 patrolling, that type of stuff?

9 A. And their TTPs and how they operate, yes.

10 Q. And you wanted to get an idea of strength of the enemy as
11 well?

12 A. Yes.

13 Q. So first you went to Lieutenant Fields, she then pointed to
14 PFC Manning as somebody who knew about the different insurgent groups
15 that were operating within the area of operation?

16 A. Yes.

17 Q. And you went to speak with PFC Manning?

18 A. Correct.

19 Q. Your conversation really wasn't very long though?

20 A. No.

21 Q. Basically lasted about 10 to 15 minutes?

22 A. Maybe. I don't know how long it lasted.

23 Q. Do you think it lasted longer than that?

1 A. No, probably not.

2 Q. And he could basically give the names of the enemy groups
3 and whether they were Sunni or Shia?

4 A. Correct.

5 Q. He didn't have a lot of details that you actually needed?

6 A. No.

7 Q. And basically after talking to him for that short period of
8 time then you did your own research on the enemy threat?

9 A. Correct.

10 Q. You spent approximately the next several hours pulling
11 information that you needed to truly identify the enemy threat?

12 A. That's correct.

13 Q. Now, I want to talk about your experience in working with
14 PFC Manning. Okay?

15 A. Okay.

16 Q. After working with him for a short period of time, you
17 noticed that he was a junior analyst?

18 A. Yes.

19 Q. As a junior analyst he basically missed the so what factor;
20 is that correct?

21 A. Yes. The analysis, usually that comes with experience.

22 Q. So he really couldn't give you a good amount analytical
23 product that you needed?

1 A. Not the analysis portion, yes.

2 Q. And that wasn't really surprising because of the level of
3 his experience?

4 A. Yes.

5 Q. And really creating a good analytical product from the
6 analysis standpoint takes time to develop that skill?

7 A. Yes.

8 Q. It takes experience?

9 A. Yes.

10 Q. And PFC Manning was inexperienced?

11 A. Correct.

12 Q. He was still learning?

13 A. Yes.

14 Q. Now, he wasn't an expert analyst when it came to the
15 different insurgent groups in Iraq, was he?

16 A. What do you mean?

17 Q. Would you consider him an expert analyst on the different
18 insurgent groups in Iraq?

19 A. No.

20 Q. Would you consider him an expert analyst on the enemy
21 threat as a whole to the United States?

22 A. No.

1 Q. Now, even though PFC Manning was not an expert analyst at
2 this point, he was very good with computers?

3 A. Correct.

4 Q. And during the deployment, you frequently assigned him
5 computer data entry products based upon his skills?

6 A. Correct.

7 Q. And the skills you assigned him, they actually did require
8 computer knowledge?

9 A. Yes.

10 Q. And he could really do a good job of importing and
11 exporting information in Excel?

12 A. Yes.

13 Q. And you knew that he understood the various programs that
14 are on the DCGS system?

15 A. Yes.

16 Q. He also did a very good job of plotting data points on
17 maps?

18 A. Yes.

19 Q. You saw his computer skills as his real strength as a
20 junior analyst?

21 A. That's correct.

22 Q. And you used those strengths, as any officer would, to help
23 improve your S-2 products?

1 A. Yes.

2 Q. Now, within S-2 plans, you testified on direct, that it was
3 the MDMP process that you were constantly going through; is that
4 right?

5 A. That's correct.

6 Q. The military decision-making process?

7 A. Correct.

8 Q. And you needed his assistance in pulling certain data in
9 that process?

10 A. Yes.

11 Q. You would ask him to take that data and put it on a map?

12 A. Yes.

13 Q. And then once he did that, you would actually do the
14 analysis?

15 A. That's correct.

16 Q. You didn't rely upon him to do the analysis?

17 A. No.

18 Q. And why was that?

19 A. Well, because he was a junior analyst and I would talk
20 through the product with him as a learning point, but when it came
21 down do it, I did -- being more experienced I did my own analysis on
22 it.

23 Q. And during the deployment you worked out of the SCIF?

1 A. That's correct.

2 Q. And my understanding, for the most part, your primary
3 mission was election security?

4 A. Yes, for most of the deployment.

5 Q. And you spent a large amount of time working on products
6 for election security?

7 A. Yes, or within that operation order, yes.

8 Q. And on direct it was essentially these products were being
9 used apparently for the commander to make certain decisions on
10 courses of action?

11 A. That's correct.

12 Q. Now, obviously, these products were very important for your
13 brigade?

14 A. Yes.

15 Q. And you assigned PFC Manning several duties to complete in
16 order to help you on the products that you needed to produce?

17 A. Yes.

18 Q. My understanding is you were assigning him these projects
19 pretty much on a frequent basis from November of 2009, to the time
20 that the elections happened in March of 2010?

21 A. You'd have to define frequent, but there were a few
22 taskings, yes.

1 Q. I'd like you to define frequent for me. How often were you
2 tasking him?

3 A. It would depend on what the project was that we were
4 working on within that time frame. Some were specific to his
5 section. Some weren't. So if it was specific to his section and we
6 were under time constraints, then I would request assistance. It
7 wasn't a daily event.

8 Q. Did he work a lot for you during this time?

9 A. I wouldn't say a lot. He was the analyst that I went to
10 when I needed assistance, but I did a lot of it on my own.

11 Q. I know it's taking you back a few years, but for the
12 military judge, would you give an approximation of how often would
13 you task him?

14 A. I don't know if I would even be able to give you an
15 approximate number of times.

16 Q. And that's just due to the time period that's gone on?

17 A. I don't remember how many times he was tasked.

18 Q. Safe to say he worked for you?

19 A. On occasions.

20 Q. Well he go with that. When he was assigned tasks he
21 completed those tasks?

22 A. Yes.

23 Q. And he completed those tasks in a timely fashion?

1 A. Yes.

2 Q. You never noticed a drop in his performance, did you?

3 A. No, not in the stuff that I assigned him, no.

4 Q. And did anyone ever come to you and say that PFC Manning's
5 performance had dropped?

6 A. No, not specifically -- there was discussions about certain
7 things, but not analytical performance, no.

8 Q. All right. Now, let's talk about one of the things that
9 came out on direct. You mentioned that PFC Manning was tasked to do
10 a trend analysis of SIGACTs for the brigade?

11 A. Yes.

12 Q. What was this project again?

13 A. It was essentially it just supposed to show increase and
14 decrease over time since we've been in theatre, whether SIGACTs had
15 increased or decreased since we were there.

16 Q. And how would PFC Manning create a product like that?

17 A. He pulled all the SIGACTs from CIDNE, organized them on an
18 Excel spreadsheet and then you can use the charts with an Excel
19 spreadsheet is to create, show, identify trends.

20 Q. And I imagine what was of use and benefit was not only
21 pulling that data but also indicating what type of SIGACT it was?

22 A. Yes. Organizing it, yes.

1 Q. So that would identify in it was an enemy threat type
2 SIGACT?

3 A. Yes.

4 Q. Or enemy engagement?

5 A. Yes.

6 Q. Or civilian death?

7 A. Yes.

8 Q. And PFC Manning had reviewed those SIGACTs in order to
9 create the product?

10 A. Correct.

11 Q. I want to ask you about analytical products in general. Are
12 you familiar with the term intelligence gap?

13 A. Yes.

14 Q. And when would you call something an intelligence gap?

15 A. When you don't have any information.

16 Q. You're familiar with the term assumption in the
17 intelligence work product?

18 A. Yes.

19 Q. And what would you call when would you call something an
20 assumption?

21 A. When you don't have the information, but you think it might
22 be a certain way.

1 Q. And as soon as you actually have kind of actual knowledge
2 of that fact would you call it an assumption?

3 A. I don't understand the question.

4 Q. If you have actual knowledge of a fact, would you call
5 something an assumption in a work product?

6 A. Facts and assumptions are separated.

7 Q. And if you have actual knowledge of something would you
8 call it an intelligence gap?

9 A. No.

10 Q. In the January to May 2010, time frame did your unit have
11 any actual knowledge as to which websites enemies went to get
12 information?

13 A. I don't remember.

14 Q. Did you ever remember anything being put out that this
15 particular website is where the enemy goes?

16 A. Like their own websites or just websites in general?

17 Q. The latter.

18 A. General knowledge that they visit, you know, all sorts of
19 websites seeking information, but.

20 Q. But any actual knowledge as to which websites?

21 A. For operational security purposes they -- you know, you're
22 frequently briefed on Facebook and social networking sites that

1 obviously a lot of people put personal information on. They've used
2 Google maps.

3 Q. Potential information where they might go?

4 A. Yes.

5 Q. Anything where there's actual confirmation they may go to
6 this website?

7 A. Not that I know.

8 Q. Are you familiar with a program mIRC Chat?

9 A. Yes.

10 Q. And are you familiar with the term executable file?

11 A. No.

12 Q. How was mIRC Chat put on your computer?

13 A. I don't remember.

14 Q. Was it -- when you say you don't remember, was it part of
15 your computer when you got there?

16 A. No, I don't think so.

17 Q. How did you use mIRC Chat on your computer?

18 A. It was on the desktop. The icon was on the desktop.

19 Q. Did you have to click on it -- double click it to get it to
20 opened up and run?

21 A. Yes.

22 Q. You don't recall who put that on your computer?

23 A. No.

1 Q. Let's discuss the SIGACTs for a moment. After PFC
2 Manning's arrest, did your unit continue to use SIGACTs?

3 A. Yes.

4 Q. Was there ever a time in which your unit didn't have access
5 to the CIDNE Iraq database that had SIGACTs?

6 A. No.

7 Q. Since PFC Manning's arrest, has there ever been anything
8 put out that says don't use any SIGACTs that predate January 2010?

9 A. No.

10 MJ: Yes.

11 ATC[CPT WHYTE]: Relevance.

12 MJ: Same as before, 641, is that correct.?

13 CDC[MR. COOMBS]: Yes, Your Honor.

14 MJ: Go ahead.

15 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

16 Q. Did you and the other analysts continue to use SIGACTs that
17 predated January 2010, in the same way that you did after PFC
18 Manning's arrest?

19 A. I'm sorry, are you asking if we use SIGACTs from before
20 January of 2010?

21 Q. In the same manner that you did -- I'm actually asking
22 before PFC Manning's arrest and then after, did you change the way
23 you used SIGACTs?

1 A. No.

2 Q. You talked about the Apache video. My understanding is
3 when you came back and you said you didn't think that was the same
4 video and then basically you told PFC Manning to prove it to you by
5 sending you the video?

6 A. No. I said that I would have to see the video back to back
7 in order to be able to make that determination, because I had seen
8 both video clips, I had seen at separate times. One I had seen not
9 very closely. So I wasn't sure -- to me it looked like they weren't
10 the same video, but again I was just saying I would have to say both
11 videos again back to back to make that determination.

12 Q. And after saying that PFC Manning sent you the video?

13 A. Correct.

14 Q. At the time that he said that it was the same video or
15 after sending you the video, did he act in any way that was boastful
16 or bragging or anything like that?

17 A. No.

18 Q. With regards to just analysts in general, an all source
19 analyst, can they look at anything they want to on the SIPRNET?

20 A. Just about, yes.

21 Q. Would you discourage an all source analyst from basically
22 from basically kind of like surfing the SIPRNET on their free time
23 just to see what's there as learning information?

1 A. No, as long as it was in the realm of professional
2 development.

3 Q. Why would you not discourage an analyst for just surfing
4 the SIPRNET?

5 A. Because intelligence, you know, and enemy threat groups are
6 global. So although we have a mission specific enemy that we should
7 be focused on, for professional development purposes they could learn
8 about other enemy threat groups.

9 Q. So if you saw PFC Manning surfing the Internet and looking
10 at various places on the SIPRNET and pulling information just kind of
11 organizing it for his professional development, you wouldn't have a
12 problem with that?

13 A. Yes. For his professional development, no, I wouldn't.

14 CDC [MR. COOMBS]: Thank you.

15 MJ: Redirect?

REDIRECT EXAMINATION

17 Questions by the assistant trial counsel [CPT WHYTE] ..

18 Q. Captain Fulton, let's just talk briefly about intelligence
19 gap, what that actually means. Can you give maybe just an
20 unclassified example of what could be an intelligence gap?

21 A. Frequently intelligence gaps are identified during the
22 mission analysis portion of the MDMP. What I would think is a good
23 example of an intel gap is frequently is the enemy logistics. We

1 know they're bringing weapons, we don't know where, how, or when. So
2 we make some assumptions and then we put collection assets on our
3 assumptions to confirm or deny.

4 Q. So you know the enemy is bringing in weapons?

5 CDC[MR. COOMBS]: Objection, leading.

6 MJ: Overruled. She just responded to that. Go ahead.

7 [Examination of the witness continued.]

8 Q. So you know that the enemy is bringing in weapons?

9 A. Yes.

10 Q. In this hypothetical?

11 A. Yes.

12 Q. What else do you know, for instance, about the enemy in
13 this hypothetical?

14 A. I mean, it varies. So that's, you know, they're bringing
15 them in, you know, that they have to be, you know, coming from
16 somewhere. They have to be doing it at certain times. They have a
17 methodology associated with their activities and you may not know
18 what that is and so you just -- you confirm or deny in order to
19 continually fill that gap.

20 Q. And just lastly on cross the defense asked you: Did you
21 ever -- would you discourage a Soldier from surfing the SIPRNET?

22 A. For professional development purposes?

23 Q. Yes. Did you ever surf the SIPRNET?

1 A. For professional development purposes, not while in
2 theatre, no.

3 Q. Why not?

4 A. I didn't have time.

5 Q. And also for the Apache video, you said you were surprised
6 when you ended up seeing it. Why were you surprised?

7 A. Because what I had seen the media put on the news didn't
8 look at all like the same when I saw it.

9 Q. What about because of where you saw it previously?

10 A. Yes.

11 ATC[CPT WHYTE]: No more questions, Your Honor.

12 MJ: All right.

13 CDC[MR. COOMBS]: Nothing, Your Honor.

14 MJ: Temporary or permanent excusal? Temporary?

15 ATC[CPT MORROW]: Yes, ma'am.

16 **[The witness was duly warned, temporarily excused and withdrew from**
17 **the courtroom.]**

18 MJ: Counsel, do we have anything else to present today?

19 CDC[MR. COOMBS]: No, Your Honor.

20 TC[MAJ FEIN]: No, Your Honor.

21 MJ: As I announced yesterday, due to logistics issues, we're
22 going a little faster than we anticipated and some issues that the
23 parties need to work logistically. We're going to put the Court in

1 recess until 0930 on Monday morning. We'll have the same schedule
2 that we have been having all along, start up at 0930, go until about
3 -- we're running early today, but 5:30 or 6:00 in the afternoon.

4 Is there anything else we need to address?

5 CDC[MR. COOMBS]: No, Your Honor.

6 TC[MAJ FEIN]: No, ma'am.

7 MJ: Court is in recess.

8 [The court-martial recessed at 1512, 5 June 2013.]

1 [The court-martial was called to order at 0943, 10 June 2013.]

2 MJ: Court is called to order. Major Fein, please account for
3 the parties.

4 TC[MAJ FEIN]: Your Honor, all parties when the court last
5 recessed are again present with the following exceptions: Mr.
6 Robertshaw, Court Reporter, is absent; Mr. Chavez, Court Reporter who
7 has been previously sworn is present; Captain Overgaard is absent,
8 and Captain Morrow and Captain Whyte are present.

9 MJ: All right. Thank you. Let's begin with any housekeeping.
10 Have we had anything marked as an appellate exhibit, or a prosecution
11 exhibit, or a defense exhibit?

12 TC[MAJ FEIN]: Yes, ma'am. May I have a moment? Your Honor,
13 first the parties agreed to a stipulation of expected testimony from
14 Mr. Steven Buchanan, dated 9 June 2013 and this has been marked as
15 Prosecution Exhibit 69 for Identification.

16 MJ: All right. PFC Manning, do you have a copy of Appellate
17 Exhibit 69, or Prosecution Exhibit 69, I'm, sorry ----

18 ACC: Yes, Your Honor.

19 MJ: ---- in front of you? And we have had this discussion on
20 other stipulations of expected testimony and will have this
21 discussion probably several times again I believe in the course of
22 this court-martial, but with this particular stipulation of a Mr.
23 Steven Buchanan dated 9 June 2013, it consists of four pages.

1 Is that your signature on the last page?

2 ACC: Yes, ma'am.

3 MJ: Before signing this stipulation did you read it thoroughly.

4 ACC: I did, Your Honor.

5 MJ: Do you agree with the contents of the stipulation?

6 ACC: Yes, ma'am.

7 MJ: Before signing this stipulation, did your defense counsel

8 explain the stipulation to you?

9 ACC: Yes, ma'am.

10 MJ: Do you have any questions about the stipulation?

11 ACC: No, Your Honor.

12 MJ: Do you understand that you have an absolute right to refuse

13 to stipulate to the contents of this document?

14 ACC: I do, Your Honor.

15 MJ: Do you understand you should enter into this stipulation

16 only if you believe it's in your best interest to do that?

17 ACC: Yes, Your Honor.

18 MJ: And once again, I want you to understand how this

19 stipulation is going to be used. It's a stipulation of expected

20 testimony, and what that means is when counsel for both sides and you

21 agree to a stipulation of expected testimony, you are agreeing that

22 if Mr. Steven Buchanan were here in court sitting on the witness

23 stand that Mr. Buchanan and under oath, that Mr. Buchanan would

1 testify substantially as to what is in this stipulation of expected
2 testimony?

3 ACC: Yes, Your Honor.

4 MJ: All right. And his testimony can be contradicted, attacked
5 or explained the same way as if he was testifying here live in court,
6 and you are not admitting to the truth of the person's testimony?

7 ACC: Yes, ma'am.

8 MJ: And knowing what I told you and what your defense counsel
9 earlier told you about this stipulation, do you still want to enter
10 into this stipulation of expected testimony?

11 ACC: Yes, ma'am.

12 MJ: Counsel for both sides agree to the stipulation and its
13 content?

14 TC[MAJ FEIN]: Yes, ma'am.

15 DC[MAJ HURLEY]: Yes, ma'am.

16 MJ: All right. Prosecution Exhibit 69 is admitted.

17 TC[MAJ FEIN]: Your Honor, also on 5 June 2013 what has been
18 marked as Appellate Exhibit 564, United States filed its witness list
19 order and proposed stipulations for the prosecution witnesses for the
20 remainder of the government's case in chief.

21 MJ: All right. As I understand it, the parties are still
22 working on some of those stipulations?

1 TC[MAJ FEIN]: Yes, ma'am. Although there are many stipulations
2 that are annotated by both parties on this filing, we are working and
3 probably the next recess we'll have many more of these signed and
4 ready for the court to go over with the accused.

5 CDC[MR. COOMBS]: And, Ma'am, as part of the 802 session we
6 discussed that if the government were to add anyone on to this list
7 they would give the defense a 24-hour notice.

8 TC[MAJ FEIN]: Yes, ma'am. And the United States acknowledges
9 that.

10 MJ: All right. Any other housekeeping matters?

11 TC[MAJ FEIN]: Yes, ma'am. Ma'am, as of this morning the media
12 operations center consists of 11 journalists and two stenographers.
13 The theater is not currently being used. And the overflow trailer is
14 also not currently being used although available and up to 30 seats.

15 MJ: All right. And once again, for the record, up to this
16 point in time at the trial have any members of the public been
17 specifically excluded based on the Court's order?

18 TC[MAJ FEIN]: No, ma'am.

19 MJ: All right. Thank you. Does defense have any reason to
20 disagree?

21 CDC[MR. COOMBS]: No, Your Honor.

22 MJ: Any other matters for housekeeping?

23 TC[MAJ FEIN]: No, ma'am.

1 CDC[MR. COOMBS]: No, Your Honor.

2 MJ: All right. The government proposed trial schedule plan, I
3 announced at the beginning of the trial that we would try it out for
4 a week and see how it worked. We had a little fluctuation last week
5 because we recessed early, but that's at Appellate Exhibit 551.
6 There was no defense objection. The Court will approve that proposed
7 trial plan, certainly it may be modified as we go along depending on
8 necessity, but for now it provides a good rough schedule on how we
9 will proceed. The usual starting 0930 in the morning, ending
10 approximately 15 -- or at 5:30 or 6:00 o'clock at night depending on
11 the status of the particular witness who is on the stand. Any issues
12 with Appellate Exhibit 551?

13 CDC[MR. COOMBS]: No, Your Honor.

14 TC[MAJ FEIN]: No, ma'am.

15 MJ: All right. Next we have Appellate Exhibit 563 and, for the
16 record, counsel and I entered into a R.C.M. 802 conference this
17 morning. Once again, that's a conference where I discuss scheduling
18 and logistics that arise in cases. One of the issues that came up
19 was any changes to the government's witness list that Mr. Coombs and
20 Major Fein just addressed. Another issue that came up was Appellate
21 Exhibit 563, I had -- which is the -- a request from the Freedom of
22 the Press Foundation that was addressed to myself and Major General
23 Linnington who is the Commander of the United States Military

1 District of Washington with respect to credentialing two
2 stenographers to -- an overlap of two stenographers to report, to
3 create an unofficial transcript of this trial which they intend to
4 broadcast that will be available to all media outlets and the public
5 is what this letter tells me. Mr. Coombs advised me by email that
6 the defense wished to put their position on the record. Would you
7 like to do that?

8 CDC[MR. COOMBS]: Yes, Your Honor. Just briefly. We believe
9 that this enforces PFC Manning's Sixth Amendment right to a public
10 trial and also impacts on a First Amendment right for the press to
11 accurately keep track of what happens in the court-martial. Our
12 understanding is that the government now is assuring that the
13 stenographers will have access during non-peak times, and then during
14 peak times they are looking into whether they'll have access at the
15 MOC or not. It appears that regardless of whether it's peak or non-
16 peak they're going to be given an access pass instead of credential
17 passes. And then I know that we still have an outstanding issue on
18 whether or not the government can accommodate the request to have one
19 of the stenographers come in at 0700 and another come in during the
20 afternoon session to where we don't have a requirement for both of
21 the stenographers to be present the entire day.

22 MJ: All right. Major Fein, would you like to be heard?

1 TC[MAJ FEIN]: Ma'am, the United States after the R.C.M. 802
2 and based off what the defense has asked owes the Court and defense
3 some answers to questions. One is, can the overflow trailer be used
4 as an area for a stenographer versus the media operations center and,
5 second, the logistics of actually having an individual escorted on or
6 off post and we'll get both those questions answered today, Your
7 Honor.

8 MJ: All right. Thank you. Just for the record, while the
9 Court is not interested in getting into the area of who is
10 credentialed and who isn't credentialed as it's beyond the scope of
11 this trial, the Court does note and so advised the parties in the
12 R.C.M. 802 conference that the Rules for Court-Martial are not
13 structured to provide a contemporaneous transcript of proceedings.
14 In light of the public interest in this case, in light of the unique
15 circumstances of this case, in light of the assertion by PFC Manning
16 that this stenographer procedure will further his rights to a Sixth
17 Amendment right to a public trial and also obviously further the
18 public's First Amendment right to a public trial, the Court has
19 ordered the government to arrive at some kind of accommodation to
20 allow stenography of the proceedings of this trial and the creation
21 of, I guess what their intent is an unofficial transcript, certainly
22 not an official transcript, the government's not doing it. So the
23 government's in the process of making that arise. And just for the

1 record, this rule or this guidance of the Court can always be
2 reconsidered should there be a violation of the Rules of Court with
3 respect to audio broadcasting or visual broadcasting once these
4 procedures are put into place. Does either side desire to address
5 this issue any further?

6 CDC[MR. COOMBS]: No, Your Honor.

7 TC[MAJ FEIN]: No, ma'am. Ma'am, before we go on, could we
8 please correct one Appellate Exhibit for the record?

9 MJ: Certainly.

10 TC[MAJ FEIN]: Earlier the Court when discussing the
11 government's proposed trial schedule plan referenced Appellate
12 Exhibit 551. The actual proposed court -- proposed trial schedule
13 plan is 553 Alpha.

14 MJ: All right. Does the defense agree?

15 CDC[MR. COOMBS]: I'll have to take Major Fein's word for it,
16 ma'am, I don't have the appellate exhibits in front of me.

17 MJ: All right. 553 Alpha and that's the government's proposed
18 trial schedule dated 21 May 2013. Is that correct?

19 TC[MAJ FEIN]: Yes, Your Honor.

20 MJ: Okay. That's the Court's mistake. The Court is prepared
21 to rule on the request for public access or in the alternative motion
22 to intervene to vindicate right to public access.

1 On 3 June 2013, the Court received Appellate Exhibit 558, a
2 proposed motion to intervene under Rules for Court-Martial 806(a),
3 (b) and (c) by three individuals who are not parties to the trial.
4 Neither the government nor the defense have moved to file Appellate
5 Exhibit 558 as a motion with the Court.

6 Findings: One, the proceedings have been open to the
7 public since the start of the trial. The Court has made
8 particularized findings as required by R.C.M. 806(b)(2) with respect
9 to those portions of the trial that must be closed to protect
10 classified national security information, Appellate Exhibit 550.

11 Two, neither the Court nor anyone acting pursuant to order
12 of the Court has specifically excluded any person from observing the
13 proceedings either in court or in a designated overflow area. '

14 Three, reasonable policies and procedures for media
15 registration and credentialing have been established and published by
16 the Military District of Washington as set forth in Appellate Exhibit
17 561.

18 Four, R.C.M. 806(c) prohibits photography and broadcasting
19 to include video and audio recording, the taking of photographs and
20 radio and televised broadcasting of the trial.

21 Five, the two parties to this trial are the United States
22 and PFC Manning. Unless authorized by the Rules for Court-Martial,
23 or in special circumstances recognized by the Court of Appeals for

1 the Armed Forces, only parties to the trial have standing to file
2 motions to be considered by this Court. *ABC Inc. v. Powell*, Court of
3 Appeals for the Armed Forces, 1997.

4 Ruling, the Court declines to consider Appellate Exhibit
5 558 as it is from three individuals who are not parties to the trial
6 and who under the circumstances lack standing to file a motion with
7 the Court. I'll have this marked as the next appellate exhibit in
8 line.

9 Is there anything else we need to address at this point
10 before going forward with the merits of the trial?

11 CDC[MR. COOMBS]: No, Your Honor.

12 TC[MAJ FEIN]: No, Your Honor.

13 MJ: Government, proceed.

14 TC[MAJ FEIN]: Ma'am, the United States offers Mr. Buchanan's
15 stipulation to be read into the record.

16 MJ: Proceed.

17 TC[MAJ FEIN]: Stipulation of Expected Testimony, Mr. Steven
18 Buchanan, 9 June 2013. It is hereby agreed by the accused, defense
19 counsel and trial counsel that if Mr. Steven Buchanan were present to
20 testify during the merits and presentencing phases of this court-
21 martial he would testify substantially as follows:

22 I work as a contractor for the National Security Agency,
23 NSA. I provide support to Intelink. Intelink is a software suite

1 operating on U.S. government private networks which provides
2 Internet-like services to enable collaboration between intelligence
3 agencies within the United States Government. Primarily it includes
4 a web-based search engine of Unclassified, Secret and Top Secret
5 information systems. It hosts blogs and allows for messaging,
6 sharing files and searching for Unclassified, Secret and Top Secret
7 information across agencies, to include Intellipedia for online
8 collaboration and passport account management.

9 In my current position I provide security for Intelink and
10 serve as the Information Assurance IA manager. This means that I
11 make sure the systems work as they were intended. I work to ensure
12 the systems are properly maintained and guard against their misuse. I
13 have worked in this role for 5 years.

14 Prior to holding my current position from 1999 to 2008, I
15 was an Information Systems Security Engineer for Intelink. In this
16 position I made sure the systems were built correctly to perform
17 their intended connection, search and storage functions. Before that
18 I worked in systems support within the Intelligence community, IC.
19 In total I have worked in the IA industry supporting different
20 agencies in the IC since 1985.

21 I have two primary IA and information systems
22 certifications -- excuse me -- certifications. First, I am a
23 Certified Information Systems Security Professional, CISSP. This

1 means I've heightened experience in the knowledge of information
2 security. CISSP is a globally recognized standard of achievement
3 that confirms an individual's knowledge in the field of information
4 security. This -- The training covers all parts of information
5 security including personnel and building securities aspects. CISSP
6 indicates that an individual has attained specialized knowledge in
7 the field of IA in accordance with standards articulated and in
8 Department of Defense Directive 8570. In addition to CISSP I also
9 have the Information Technology Infrastructure Library, ITIL,
10 foundation certification. ITIL is the most widely adopted framework
11 for IT service management in the world. ITIL provides a framework on
12 technology systems management, particularly on how to build
13 information management systems and manage them with a specific
14 process.

15 In my role as an IA manager for Intelink, I am familiar
16 with the audit logs created by Intelink. The Intelink System
17 obtains, manages, and stores its own audit data through the course of
18 its day-to-day operations. This data can be used to respond to
19 user inquiries, troubleshoot technical problems, and monitor and
20 maintain Intelink usage and performance. These logs are created
21 anytime anyone makes a connection with a computer system. The system
22 detects these connections from servers, tracking the work station
23 making the request of the system, how requests route through the

1 system, and where the request ultimately gets the information. These
2 connection logs are made in real-time and stored in data files every
3 hour. They are computer generated and only a very limited number of
4 people have access to them. Intelink logs contain audit data
5 captured from proxy servers that control access to Intelink services
6 and show the activities of users in that connect to and use the
7 Intelink services while in classified and unclassified networks.

8 We know that Intelink logs are accurate for several
9 reasons: First, they write to a secure server; second, only limited
10 personnel have access to them; third, they are reviewed by our team
11 at least on a weekly basis to ensure that the reporting processes are
12 occurring properly, meaning to ensure that the log data is being
13 written properly. The log data is useful to us because it shows us
14 how our services are being used, whether Intelink services are
15 functioning properly and whether adjustments should be made. We can
16 also use the data to solve technical issues, determine security risks
17 and review data trends that help us develop our management
18 strategies. We can tell if there are errors because information the
19 logs normally collect would be missing. If a data file has been
20 corrupted while being written, it would not open. Missing or
21 corrupt data files, excuse me, missing or corrupt data files are
22 regenerated from the system, so in short the data these systems logs
23 have captured is complete and accurate.

1 I am involved in this case because we received a request to
2 pull Intelink audit logs given Intelink could have been used to
3 gather information that was ultimately compromised. At that time we
4 did not track users by log-in identifiers. Instead, we tracked usage
5 by IP address. One of the log data requests was from the Secret or
6 excuse me, ma'am, Secure Internet protocol routing network, SIPRNET,
7 IP address 22.225.41.22 and 22.225.41.40 from October 2009 to June
8 2010. Intelink audit logs are stored on a Linux based system. To
9 pull the requested log I performed a Linux search on the server.
10 This means that I issued a line command telling the server what
11 information I wanted to read. When the system returns the data, the
12 system writes the data to a file. In reviewing the files returned I
13 could find no relevant information in the data files for October 2009
14 or June 2010. However, there was activity recorded for the relevant
15 IP addresses for the months November 2009 through and including May
16 2010. I double-checked to make sure there was no activity from the
17 relevant IP addresses during October of 2009, and then ran the search
18 again to verify the results. The results of the second search match
19 the results of my original search. The results are saved
20 automatically as a .TXT file so they are readable to the person
21 running the query. When I received the response to my IP data query,
22 I opened the file to make sure it was readable and that all the data
23 had been reported properly. I did not alter the file in any way. I

1 burned the file to a CD and then turned it over to Special Agent Mark
2 Mander with Army CID. These logs are on the CDs marked Prosecution
3 Exhibit 61 for identification. The file names on Intelink logs I
4 have attested to showing activity for IP addresses, excuse me, IP
5 address 22.225.41.22 are the following: JF10_22.log, MAM10_22.tex,
6 and ND09_22.log. The file names of the Interlink logs that I
7 attested to showing activity for IP address 22.225.41.40 are the
8 following: JF10_40.log, MAM10_40.txt, ND09_40.log. The file
9 JF10_22.log contains audit logs capturing data for the 22.225.41.22
10 IP address in January and February 2010. The file MAN10_.txt
11 contains audit log -- audit logs capturing activity for the
12 22.225.41.22 IP address in March, April and May 2010. The file
13 ND09_22.log contains audit logs capturing activity for the 22.20 --
14 225.41.22 IP address in November and December 2009. I used the same
15 file name structure to capture the contents of the audit logs
16 associated with the 22.225.41.40 IP address.

17 The particular log data I captured reported several things.
18 I will use the following discrete line of data to show by way of
19 example what the Intelink logs mean. Excuse me, Your Honor.
20 22.225.41.40
21 29/November/2009:05:50:10+0000\"GET/Intelink.WIP.ISMC.Sgov.gov/webres
22 ource.AXT?D=AZ7KDRRCQCLTV13ZGP21NQ2&T=633627756757031250 HTTP/1.1"200
23 -- excuse me 200

1 6665"HTTP://www.intelink.sgov.gov/search/default.ASPX?Q=HQDA"
2 "Mozilla/5.0%20(Windows; -- excuse me, Your Honor,
3 %20U;%20Windows%20NT%205.1;%20EN-
4 US;%20RV:1.9.1.2)%20GECKO/20090729%20FIREFOX/3.5.2) (_). Excuse me,
5 Your Honor, - not _.

6 Paragraph 8. The significance of the above line that was
7 pulled from Intelink is the following: The "22.225.41.40" is the IP
8 address. This indicates that a computer with the IP address made the
9 request for information. Essentially it provides an electronic
10 location for the user using Intelink. The
11 "29/November/200:04:50:10+0000" is a date time/group. The time zone
12 is reflected as the offset from the Greenwich Mean Time, GMT. In
13 this case "+0000" shows no offset. The next entry is the action the
14 user took. In this case, for example, you see "W -- Excuse me, Your
15 Honor, you see "GET". This command indicates the user is seeking
16 particular information on SIPRNET through Intelink. The action
17 reflects the user clicking on something in the website. The next
18 entry is the web page, excuse me, the page being requested by the
19 action above. Here it is,

20 "/Intelink.WIP.ISMC.sgov.gov/webresource.AXD?D=AZ7KDRRCQCLTV13ZGP21NQ
21 2&T=63362776 -- excuse me. Your Honor, I'll repeat this number -
22 633627756757031250 HTTP/1.2". Intelink . -- WIP.ISC.sgov.gov is the
23 registered name for Intelink which is on the SIPRNET, a Secret

1 government system. The code of numbers for all -- excuse me, for the
2 information tells you whether the user's request was successful and
3 to what degree. For example, the code, "200", after particular
4 information indicates that an Internet home page, HTTP, was
5 successfully accessed. The "6665", is the size in bytes of the
6 information returned by the query. The entry
7 "HTTP://WWW.Intelink.sgov.gov/search/default.ASPX?Q=HQDA" tells me
8 the user searched for the term, "Head -- HDQA" on Intelink.sgov.gov.
9 "WWW.Inteling.sgov.gov" in the SIPRNET Internet address for the
10 Secret government system on which Intelink sits. In this entry
11 "search" is a specific Intelink service used and "Q=HDQA", represents
12 the search query entered into the search box on the Intelink web page
13 on the specific computer with the IP address listed above. The
14 entry, "Mozilla/5.0", tells me the user of the SIPRNET computer with
15 an IP address "22.225.41.40" was using version 5 of the mozilla
16 Internet browser. Mozilla is a company that produced Internet
17 software -- browser software similar to Microsoft Internet Explorer
18 or Apple safari. The entry %20 represents a space in the line. The
19 entry, "Windows;%20U --
20 ;%20Windows%20NT%205.1;%20EN/US;20RV:1.9.1.6)", tells me the user of
21 the SIPRNET computer with an IP address of "22.225.41.40" was using
22 a Windows NT work station computer. The
23 entry"%20gecko/20090729%20Firefox/3.5.2" "--" tells me that the user

1 of the SIPRNET computer with an IP address "22.225.41.40" was using a
2 version of the Firefox Internet browser version number "3.5.2".
3 Firefox is a specific name of the Internet web browser program
4 produced by the mozilla company.

5 These Intelink logs only audit what happens on the Intelink
6 system, so it can only tell you what a particular user IP address was
7 doing when connected with the Intelink system. It would reveal
8 Intellipedia searches and other ways the user's IP address used
9 Intelink searches by showing what files within Intelink that IP
10 address accessed. At the time, users were not required to have
11 Intelink passport accounts to use most Intelink services, including
12 the SIPRNET Internet search and browsing. A SIPRNET Intelink
13 passport account is a user name and password account established to
14 allow access to some government websites. It is one of the many
15 applications Intelink uses on its own internal systems to track what
16 a user accesses. A user would need an account if he wanted to
17 contribute to Intelink services or access certain websites or
18 databases on SIPRNET, but not just to conduct searches. To create an
19 account a user would have to be on the SIPRNET, go to the account
20 creation page and insert personal information such as name, contact
21 and organizational information. The user is then notified via
22 SIPRNET email with a code to use the first time he accesses the site.
23 Other government organizations or websites and databases on SIPRNET

1 use SIPRNET Intelink passport accounts to verify users before any
2 user may access their information on SIPRNET. Our Intelink
3 organization maintains and stores Intelink passport account profiles
4 of registered Intelink users. In a response to a request by Army CID
5 I looked Bradley Manning up in our system. Someone with the name,
6 "Manning,Bradley E" did have an account. The user name of the
7 individual was, "Bradley.E.Manning". According to the user account,
8 "Bradley.E.Manning", was in the military. His pay rate was E4 and
9 used an email address of "Bradley.Manning@US.Army.smil.mil." The
10 user name is automatically generated based on a common name used by
11 the individual setting up the account. The user information includes
12 identifies each identifying factor such as name, contact information
13 security questions and answers. That the user inputed into the
14 system at the time the account -- of the account creation. According
15 to the passport account, the last time the user logged in was 27
16 April 2010 at 1805 and 46 seconds Zulu time. According to the
17 passport account the registration date was 11 October 2008. The
18 password account information is marked as PE 62 for Identification.
19 I signed an attestation on 22 June 2010, Bates Number 00505257
20 attesting to the authenticity of what have been marked as PE 61 and
21 PE 62 for Identification and are the provided logs in the Intelink
22 password account information for "Bradley.E.Manning" contained in the
23 file "Manning.LDIV".

1 Your Honor, the United States moves to admit Prosecution
2 Exhibit 61 and 62 for Identification as Prosecution exhibit 61 and
3 62.

4 DC [MAJ HURLEY]: No objection, ma'am.

5 MJ: All right. May I see -- Is Prosecution Exhibit 61 a CD?

6 TC [MAJ FEIN]: Your Honor, Prosecution Exhibit 61 is two CDs.

7 CD 1 of 2 and 2 of 2. And 62 is a printout. Your Honor, may I have
8 a quick moment?

9 [There was a brief pause while the trial counsel consulted with
10 assistant trial counsel.]

11 MJ: Yes. All right. Prosecution Exhibits 61 and 62 are
12 admitted. Handing it back to the court reporter.

13 Government, are you ready to proceed?

14 TC [MAT FEIN]: Yes, ma'am.

15 ATC[CPT MORROW]: Your Honor, the United States recalls
16 Special Agent David Shaver

[END OF PAGE]

1 SPECIAL AGENT DAVID SHAVER, U.S. Army, was recalled as a witness for
2 the prosecution, was reminded he was still under oath, and testified
3 as follows:

DIRECT EXAMINATION

5 Questions by the assistant trial counsel [CPT MORROW]:

6 Q. Special Agent Shaver, you are still under oath.

7 A. Yes, sir.

8 Q. Agent Shaver, I want to begin by talking about some SIPRNET
9 Intelink logs collected as part of this case, but first I need to ask
10 a few preliminary questions. Did you examine any SIPRNET computers
11 associated with PFC Manning as part of this investigation?

12 A Yes, sir, I did.

Q And what were the IP addresses of those computers?

A. They were ending in .22 and .40.

Q. And again for the record, what is an IP address?

16 A That's like a telephone number for a computer.

Q. And are you familiar with Intelink?

18 A Yes sir. I am

19 Q And what is Intelink?

30 A It's Google of

21 Q And did you examine any log

22 Intelink site in this case?

1 Q. And what did those logs contain generally?

2 A. They generally contained the source IP, the computer making
3 the request, date and time of the request and some of the search
4 list.

5 Q. Now, were the Intelink logs you examined all of Intelink or
6 was it just associated with a particular IP?

7 A. Sure, they were just associated with .22 and .40.

8 Q. And what time period roughly did those -- the logs cover?

9 A. November 2009 to May 2010.

10 Q. And why was that time period collected as part of this
11 case?

12 A. Sir, that's when PFC Manning was in theater.

13 Q. When you received the log files, what do you do; do you
14 work off that copy or do you work off another copy?

15 A. Sir, for ease of review I generally -- for this case I took
16 them and converted them to an Excel spreadsheet for ease of review.

17 Q. Okay. So let's just back up a little bit though. In what
18 form did you receive the log files?

19 A. They were text files.

20 Q. And what is a text file?

21 A. Sir, it's just, just raw text, unformatted.

22 Q. And so what did you do once you found or at least opened
23 the files and they were text files, what did you do next?

1 A. I imported them into Excel.

2 Q. And generally why do log files come to you in text, is that

3 standard?

4 A. Yes, sir, generally.

5 Q. And why is that?

6 A. Sir, it's just for ease of transferring information between

7 one -- for review and ease of transferring the data from one computer

8 to another. Text is a common format for that.

9 Q. Okay. And when you received the log files in text, if you

10 had printed those text files -- first let me ask this question. Was

11 it one big file or several small file files?

12 A. There are several smaller files.

13 Q. If you had printed just one of those files, approximately

14 how many pages would that have come out to?

15 A. Quite a lot. Maybe a hundred or so, if not more.

16 Q. And that's just for one log file?

17 A. I believe -- Yes, sir.

18 Q. Now, you said you converted these text files into Excel?

19 A. Yes, sir.

20 Q. And once they were converted, if you had printed that

21 entire log sheet essentially or all the logs for the time period, how

22 many pages are we talking about?

23 A. A lot. Several hundred, if not more.

1 Q. And in your line of work, do you regularly transfer text
2 files from just their native format to Excel?

3 A. Yes, sir.

4 Q. And is that a difficult process?

5 A. No, sir.

6 Q. And when you transfer the information from text to the
7 Excel spreadsheet, did you alter the information in any way?

8 A. No, sir.

9 Q. All right. So let's talk about the logs in their -- in the
10 Excel format. Once you had them in that format, what did you do
11 next?

12 A. I wanted to determine since this is Google basically, I
13 wanted to determine what keywords were used, what was, what keywords
14 were entered and what was searched.

15 Q. And how do you determine based on looking at the logs what
16 searches were made from these computers?

17 A. What I did is I went to Intelink on my SIPRNET computer and
18 I did some keyword searches and then I requested my Intelink logs
19 from my SIPRNET computer.

20 Q. Now, when you say you requested your Intelink logs, did you
21 have to go somewhere else to ask for ----

22 A. I had to put a request in. Yes, sir.

23 MJ: Just a moment. Yes.

1 ADC[CPT TOOMAN]: Your Honor, if the government would like to
2 introduce the logs that Agent Shaver made, the defense will stipulate
3 to that.

4 MJ: You are laying a foundation?

5 ATC[CPT MORROW]: I need to explain to the court essentially
6 what they are.

7 MJ: That's fine. Go ahead.

8 Q. So, again, start the process of finding a search. How would
9 you find a search?

10 A. Yes, sir. So I found the keywords that I searched for and
11 then I went to the logs and determined there was a specific pattern
12 that predates before the search, so once I figured out what the
13 pattern is, the keyword followed it and I filtered it off of that.

14 Q. So you used the pattern to then filter off the logs that
15 you had already collected?

16 A. Correct.

17 Q. And once you had that pattern identified in the raw logs
18 essentially, what did you do next?

19 A. I extracted all the keywords out as a separate tab on the
20 Excel spreadsheet and then I started looking at what keywords were
21 entered.

22 ATC[CPT MORROW]: I am retrieving Prosecution Exhibit 81 for
23 Identification from the court reporter.

1 Q. Agent Shaver, if I could have you move to the panel box,
2 please.

3 A. Yes, sir.

4 ATC[CPT MORROW]: Your Honor, this exhibit already been shown
5 to defense counsel.

6 MJ: All right. Thank you. I notice Captain Tooman nodding his
7 head.

8 ADC[CPT TOOMAN]: Yes, ma'am.

9 ATC[CPT MORROW]: I am handing the witness what has been
10 marked as Prosecution Exhibit 81 for Identification.

11 Q. Agent Shaver, if you could just take a moment and look at
12 you that, please. Agent Shaver, do you recognize that document?

13 A. Yes, sir, I do.

14 Q. And what is it?

15 A. Sir, this is the keywords, the spreadsheet that I created
16 that contains the keywords.

17 Q. When you say keywords, again, what does that mean for --
18 What kind of activity is that capturing from the Intelink logs?

19 A. Sir, if you went to the Intelink, it's a website, if you
20 went there and you would put a keyword in, cat, dog, it would log
21 that, the word cat, and that's what I did was I pulled out those
22 individual searches. So you, again, this is -- go to the website,
23 put in a keyword and hit enter.

1 Q. And, Agent Shaver, did you create that document?

2 A. Yes, sir.

3 Q. And, again, is that an accurate summary of all of the
4 Intelink searches on the SIPRNET from these two user accounts?

5 A. Yes, sir. The two computers, sir.

6 Q. The two computers, .22 and .40?

7 A. Yes, sir.

8 Q. And when you extracted the searches from the full logs, did
9 you alter the information in any way?

10 A. I extracted out the information, but I did not alter.

11 ATC[CPT MORROW]: Your Honor, at this time the prosecution
12 moves to admit Prosecution Exhibit 81 for Identification into
13 evidence.

14 ADC[CPT TOOMAN]: No objection, Your Honor.

15 MJ: May I see it, please? Prosecution Exhibit 81 for
16 Identification is admitted.

17 ATC[CPT MORROW]: I'm going to hand the exhibit back to the
18 witness to ask a few questions.

19 Q. Agent Shaver, can you generally just describe the
20 information and the columns just, you know, the headers essentially
21 left to right.

22 A. Sure. Yes, sir. The first field would be a number field,
23 that's something I put in there to make it easier so you can

1 reference the numbers. Number 2 -- The next field is IP address.
2 The next field is the date and time. The next field is the time
3 zone. And the action, the keyword that was entered.

4 Q. Now, when you say date, I'm sorry, when you say date and
5 time, what do you mean by that, the date and time something was
6 searched?

7 A. Yes.

8 Q. And when was the first search by either one of those
9 computers?

10 A. It would be 10 November 2009.

11 Q. And when was the last search?

12 A. 7 May 2010.

13 Q. And I want to talk about -- actually, first, let me just
14 ask this question. When was the first search for WikiLeaks in those
15 -- in that summary?

16 A. 1 December 2009.

17 Q. And are there any other searches based on your review of
18 those searches that you thought were of interest to the investigation
19 or odd in any way?

20 A. Yes, sir. There were several that were odd, searches for
21 things like Iceland and Julian Assange, they seemed out of place.

22 Q. And why do you say that?

1 A. Sir, it is my understanding these computers were at FOB
2 Hammer Iraq and should have been focused on events in and around FOB
3 Hammer Iraq.

4 ATC[CPT MORROW]: Thank you. I'm retrieving Prosecution
5 Exhibit 81. Agent Shaver, you can move back to the witness box.
6 Thank you.

7 Q. Agent Shaver, I want to talk about some of the searches for
8 WikiLeaks and where they led on the SIPRNET. What happens when the
9 user at one of the IP addresses searches for WikiLeaks, what comes
10 back in the log?

11 A. There would be some search hits. If the user then clicks
12 on log files or clicks on a link, it will show that link has been
13 clicked and things of that nature.

14 Q. Now, in this case at least for these SIPRNET Intelink logs,
15 does the activity after the search, is that always captured?

16 A. No, sir.

17 Q. And why would sometimes there be gaps, sir?

18 A. If the user went to a web page, entered Intelink, entered a
19 search term and it was directed to a new web page, in essence they're
20 now on that web server, no longer part of the Intelink world.

21 Q. Okay. I'm retrieving what's been marked as Prosecution
22 Exhibit 45 for Identification.

23 MJ: Captain Tooman?

1 ADC[CPT TOOMAN]: I'm just standing up to look at it, Your
2 Honor.

3 ATC[CPT MORROW]: I'm handing the witness what has been marked
4 as Prosecution Exhibit 45 for Identification. Agent Shaver, just
5 take a look at that, please.

6 Q. Do you recognize that document?

7 A. Yes, sir, I do.

8 Q. And what is it?

9 A. It's the Army Counter Intelligence Center report on
10 WikiLeaks.

11 Q. And was this document accessible via the SIPRNET?

12 A. Yes, sir.

13 Q. And based on your review of the Intelink logs, did any
14 searches for WikiLeaks lead to the discovery or the access of this
15 document on the SIPRNET?

16 A. Yes, sir.

17 Q. And how did you go about identifying this particular
18 document in the Intelink logs?

19 A. This document was provided to me for examination to compare
20 against a document which was released by WikiLeaks, and the original
21 document that was provided to me a unique name was provided.

22 Q. So it wasn't titled at least whatever the title of the
23 document was?

1 A. No, sir.

2 Q. Do you recall at least what the title was?

3 A. It started with RBO8 and there were some numbers after
4 that.

5 ATC[CPT MORROW]: Okay. I am retrieving Prosecution Exhibit
6 45 for ID from the witness and I am retrieving, again, Prosecution
7 Exhibit 84 for Identification from the court reporter. I am handing
8 the witness what has been marked as Prosecution Exhibit 84 for
9 Identification to the witness.

10 Q. Agent Shaver, do you recognize that document?

11 A. Yes, sir, I do.

12 Q. And what is it?

13 A. This is another document I created based upon the searches
14 for that RB document from the Intelink logs.

15 Q. So what does that document show essentially?

16 A. It shows four different times in which the IP .40 viewed or
17 attempted to view the RB document.

18 ATC[CPT MORROW]: Okay. I'm retrieving -- Permission to
19 publish to the court, Your Honor?

20 MJ: Proceed.

21 [There was a brief pause while the assistant trial counsel published
22 Prosecution Exhibit 84 to the Court.]

1 Q. Agent Shaver, I want to start with line 1. Can you just
2 describe for the Court the activity, the action on the very far
3 right, please?

4 A. Yes, sir. You see the last -- how do you clear it?

5 Q. Don't worry about that.

6 A. Okay.

7 Q. You can just describe the box there.

8 A. Okay. The line I've managed to -- there you go. Thank
9 you, sir. The last line there you see it says
10 <HTTP://WWW.Intelink.S.gov/search/default>, and it's Q=WikiLeaks, that's
11 a -- that was the search query for this, the search terms WikiLeaks
12 was used, and these are the -- the result was this document. And if,
13 again, if you look at that third from the bottom it says the address,
14 AKIKA.north-INSCOM.Army.smil.mil, a little further down you see the
15 document itself, RB08-617.ASP, and a little further to the right you
16 see where it says 200 and then there's numbers at the end. The 200
17 means it's successful, this document was viewed.

18 Q. Okay. And what's a .ASP?

19 A. That's like a web page.

20 Q. Okay. In lines 2, 3, and 4 do you see the -- is there also
21 a successful access in those cases?

1 A. No, sir. The 302 it's a redirect, so at this time if they
2 clicked on that link looking for that specific document, it went
3 somewhere else.

4 Q. Okay. So you can't tell if that was successful access of
5 that document?

6 A. No, sir.

7 Q. Now, again, in at least this summary, what, which line is
8 the successful access versus the unsuccessful?

9 A. It would be the first one, sir.

10 Q. And what's the date of that search?

11 A. 29 December 2009.

12 Q. Thank you.

13 MJ: My understanding the 29 December 2009, was successful and
14 the other three were not?

15 WIT: They may have been, therein lies the permutation of the log
16 files. It meant if you click on the link, it may have -- it
17 redirected it to somewhere else and I don't know where.

18 MJ: Thank you.

19 WIT: So it may have been.

20 ATC[CPT MORROW]: Your Honor, at this time the prosecution
21 moves to admit Prosecution Exhibit 84 for Identification into
22 evidence.

23 ADC[CPT TOOMAN]: No objection, Your Honor.

1 MJ: All right. Prosecution Exhibit 84 is admitted.

2 Q. Agent Shaver, I want to talk about the Intelink searches in
3 the 14 February 2010 timeframe. First, based on your review of the
4 searches in these logs, did the logs capture any searches for
5 WikiLeaks on 14 February 2010?

6 A. Yes, sir, I believe they did.

7 Q. And generally again where did these searches lead on the
8 SIPRNET?

9 A. To websites that have information pertaining to WikiLeaks.

10 ATC[CPT MORROW]: I'm retrieving what's been marked as
11 Prosecution Exhibit 85 for Identification.

12 Q. Agent Shaver, I'm handing you Prosecution Exhibit 85 for
13 Identification.

14 A. Yes, sir.

15 Q. Just take a moment and look at it, please.

16 ATC[CPT MORROW]: I'm retrieving Prosecution Exhibit 85 for
17 Identification with the witness. May I have permission to publish,
18 Your Honor.

19 MJ: Go ahead.

20 [There was a brief pause while the assistant trial counsel published
21 Prosecution Exhibit 85 for Identification to the Court.]

1 Q. Agent Shaver, I won't go through all the lines in this
2 document, but could you just describe for the Court what this, first
3 of all, again, what is the document?

4 A. Again, this is a subset of the Intelink logs for February
5 14th, 2010.

6 Q. And where does this subset of logs begin, what's the first
7 action?

8 A. Again, it's another search for WikiLeaks, you can see that
9 from the top line under the Q=WikiLeaks, and this search ended up on
10 an Army website.

11 Q. Can you just point out the line, please?

12 ATC[CPT MORROW]: It might be easier if I just hand it back to
13 the witness.

14 A. Yes. I'm sorry, it's a little blurry on here.

15 Q. Were you able to -- Based on your review of the logs, were
16 you able to identify any documents accessed by the user of those IP
17 addresses in the logs?

18 A. Yes, sir.

19 Q. And what documents were you able to identify as being
20 accessed?

21 A. There is one called CCCHereBeDragonsTripReport.

22 Q. And what line is that in that summary?

23 A. 12.

1 Q. And were there any other documents accessed as a result of
2 this search on Intelink?

3 A. There is an IIR as well, following a bunch of numbers,
4 classified documents on WikiLeaks .PDF.

5 Q. And based on your review of the Interlink logs generally,
6 have you ever seen this document accessed at a previous time other
7 than February 14th?

8 A. Yes, sir.

9 Q. And what timeframe was that?

10 A. I believe it was early December.

11 Q. Agent Shaver, I just want to -- who created this document?

12 A. I did.

13 Q. And how did you create it?

14 A. Sir, it was just filtered on the date for February 14th.

15 ATC[CPT MORROW]: Your Honor, at this time the prosecution
16 moves to admit Prosecution Exhibit 85 for Identification into
17 evidence.

18 ADC[CPT TOOMAN]: No objection.

19 MJ: May I see it, please?

20 Q. Agent Shaver, I want to shift gears for a moment. Other than
21 searches made from the computers on Intelink, what other activity was
22 significant that you observed in the Intelink logs?

1 A. There were a number of hits -- there were a number of
2 downloads using the WGet utility.

3 Q. And what is WGet?

4 A. Sir, that is a command line program executable designed to
5 basically download files from web pages.

6 Q. And when you say something's a command line program, what
7 do you mean by that?

8 A. It's command line, so there is not a graphical user
9 interface. There's no need for a mouse. You have to type the
10 commands in from the command prompt. So if you were to go to, you
11 have a Windows computer, if you go to start, run, type CMD, and hit
12 enter, that will be a DOS, a little black window would open and that
13 would be command window. You could then type commands from there.

14 Q. Now, is WGet -- what is it, is it software?

15 A. Yes, sir.

16 Q. And you also said something about executable. What's an
17 executable?

18 A. It's just a program that runs.

19 Q. And what's the difference between software and executable?

20 A. Same thing, sir.

21 Q. It's just exactly basically?

22 A. Yeah.

1 Q. Now, based on your knowledge and experience, is WGet a
2 standard program on Army computers?

3 A. Not Windows computers, no, sir.

4 Q. Why do you say that?

5 A. Sir, part of our mission at CCIU was to find malware on a
6 computer, so we had access to the Army Gold Master. And the Army
7 Gold Master or AGM is how the Army distributes software to include
8 Office and operating systems themselves across the Army network. So
9 we had access to that. We would use that to, once you know what's
10 supposed to be there, it's easier to figure out what's not supposed
11 to be there.

12 Q. All right. Let's talk about the presence of WGet in the
13 logs. Do you recall the first example of WGet in the logs?

14 A. I believe it was March 2010.

15 ATC[CPT MORROW]: I am retrieving what's been marked as
16 Prosecution Exhibit 83 for Identification. I'm now showing them to
17 defense counsel. I'm handing the witness what has been marked as
18 Prosecution Exhibit 83 for Identification.

19 Q. Agent Shaver, could you take a moment and look through
20 that, please?

21 A. Yes, sir.

22 Q. Do you recognize that document?

23 A. Yes, sir, I do.

1 Q. And what is it?

2 A. Sir, this is, again, this is a filtered on WGet from March

3 7th from the Intelink logs.

4 Q. And, again, when you say you filtered, so you created that

5 document?

6 A. Yes, sir, I did.

7 Q. And when you created the document, did you alter the

8 information in any way from the original logs?

9 A. No, sir.

10 Q. So what was the filter you used to sort of create that

11 summary?

12 A. Basically WGet and on March 7th.

13 Q. And what does that document show, just generally, and I'll

14 -- in a moment we'll go through it, but just generally what does it

15 show?

16 A. Sir, it shows a large number of files being downloaded in

17 an automated fashion.

18 Q. And when is the date of the first download of a document

19 using WGet?

20 A. That would be March 7th, 2010.

21 Q. What time?

22 A. 3:18.

1 Q. And when is the last action of downloading using WGet in
2 the logs?

3 A. Last action is March 7th, 2154.

4 Q. 2154?

5 A. I'm sorry. Your -- I'm sorry. 7:06, I apologize.

6 Q. So approximately between the first and last action, how
7 much time elapsed?

8 A. Just a few hours.

9 MJ: Wait a minute. Let me stop you there. So the first
10 download is 7 March at 3:18 and the second one is 7 March at when, or
11 the last one?

12 WIT: The last one, I apologize, ma'am, 7:06.

13 MJ: Using military time or using civilian time?

14 Q. This might be easier -- Agent Shaver, let's just go through
15 it.

16 A. No problem.

17 ATC[CPT MORROW]: Permission to publish to the Court, Your
18 Honor.

19 WIT: Ma'am, military time.

20 [There was a brief pause while the assistant trial counsel published
21 Prosecution Exhibit 85 for Identification to the Court.]

22 ATC[CPT MORROW]: I'm just going to show the first page of
23 this exhibit, Your Honor.

1 Q. Agent Shaver, approximately how much time, based on your
2 review of these logs, how much time elapses between each use of WGet?

3 A. Not a lot, sir. If you can see from lines 7 through 13,
4 they're all 7:46. Or excuse me 3:46. So not a lot of time between
5 each one.

6 Q. And let's, if you could just look at those lines
7 specifically and just move to the right there, can you describe the
8 action at the very right of the screen? What does the 200 mean and
9 then describe going right, what does that mean?

10 A. Yes, sir. Starting at 200. 200 means success. The number
11 following it is the size of the file. And a little further to the
12 right it shows what was used. In this case it was WGet and that was
13 the version, 1.11.4.

14 Q. Now, if you go to the left a little bit, I see a number of
15 lines sort of recreated, document ID equals 144708, and then a number
16 of document IDs. What is the document ID?

17 A. The document ID -- The server this is being captured from
18 is a Sharepoint server pertaining to Guantanamo Bay detainees. As
19 such the documents are not stored by a common name, they're stored by
20 a document ID. So to retrieve it, if you were to go to the website,
21 you would click on the link that said, a file common name, maybe a
22 person's last name. But actually underneath it in the code it would
23 say to retrieve a certain document ID.

1 Q. So in this case what does the document ID represent?

2 A. A file name.

3 Q. Agent Shaver, approximately how many WGet actions did you
4 observe in this log on 7 March?

5 A. Over 700.

6 ATC[CPT MORROW]: Your Honor, at this time the prosecution
7 moves to admit Prosecution Exhibit 83 for Identification into
8 evidence as Prosecution Exhibit 83.

9 ADC[CPT TOOMAN]: No objection, Your Honor.

10 MJ: May I see it, please? Thank you. Prosecution Exhibit 83
11 for Identification is admitted.

12 Q. Agent Shaver, you said that those document IDs resolved or
13 went back to the detainee assessments located on the SIPRNET. Is
14 that correct?

15 A. Correct.

16 Q. Now, in any time in your review of the Intelink logs, did
17 you notice any other activity or accessing of information on detainee
18 records on Intelink?

19 A. Yes, sir.

20 Q. And what time was that?

21 A. 5 March 2010.

22 ATC[CPT MORROW]: I'm retrieving what's been marked as
23 Prosecution Exhibit 82 for Identification. I'm showing it to the

1 defense counsel. I'm handing the witness what's been marked as
2 Prosecution Exhibit 82 for Identification.

3 Q. Do you recognize that document, Agent Shaver?

4 A. Yes, sir, I do.

5 Q. And what is that?

6 A. Sir, this is a document, a subset of the Intelink for March
7 5th, yeah, March 5th 2010.

8 ATC[CPT MORROW]: Permission to publish to the Court, Your
9 Honor.

10 MJ: Proceed.

11 [There was a brief pause while the assistant trial counsel published
12 Prosecution Exhibit 82 for Identification to the Court.]

13 Q. Agent Shaver, I'm just going to show you the first page of
14 the exhibit. And if you would, Agent Shaver, using this document,
15 just describe the activity that you're seeing in the logs.

16 A. The activity, is somebody is on a computer assigned the IP
17 .22 is downloading files. Again, you see the document ID again and
18 you see their link to the website is there and you see some 200s and
19 you see some 000s. There's an issue for that download didn't quite
20 work right. And there's the time and dates associated with those
21 downloads.

22 Q. Now, in terms of what the user is doing or what you're
23 observing in this activity on the Intelink versus the 7 March

1 activity, what's the difference between those two accessing -- the
2 accessing of the detainee assessment on those two dates?

3 A. This appears to be a lot of right clicking, save as.

4 Q. And why do you say that?

5 A. Because it's the time. It's not as fast and there's some
6 errors, so it looks, it appears to be somebody's manually downloading
7 these files.

8 Q. Now, did you observe WGet on 5 March?

9 A. I do not -- No, sir.

10 Q. And how do you know that, again, these are detainee
11 assessments, where in the logs does it show that those are the files
12 being accessed?

13 A. It actually says it, right there; action line, this is the
14 website, wiki/JTF-GTMO_Detainee_Asessments.

15 Q. Thank you. Now, again ----

16 MJ: Before you move that ----

17 ATC[CPT MORROW]: I'm sorry.

18 MJ: I did have a question. You have the 200s where you say
19 were a success, after some of the 200s then you have the 000, what
20 does that mean?

21 WIT: There's a problem.

22 MJ: Thank you.

1 Q. Agent Shaver, how was this, again, and you may have answered
2 this, how was this summary created?

3 A. I filtered based off the date and the action.

4 ATC[CPT MORROW]: Your Honor, at this time the prosecution
5 moves to admit Prosecution Exhibit 82 for Identification into
6 evidence.

7 ADC[CPT TOOMAN]: No objection, Your Honor.

8 MJ: Prosecution Exhibit 82 is admitted.

9 ATC[CPT MORROW]: Thank you, Agent Shaver. Government has no
10 further questions at this time.

11 ADC[CPT TOOMAN]: Your Honor, the defense would request a 10-
12 minute comfort break.

13 MJ: Any objection?

14 TC[MAJ FEIN]: No, ma'am.

15 MJ: All right. Agent Shaver, please don't discuss your
16 testimony or knowledge of the case with anyone while we are on the
17 recess. Court is in recess until 5 minutes to 11.

18 **[The court-martial recessed at 1052, 10 June 2013.]**

19 **[The court-martial was called to order at 1104, 2013.]**

20 MJ: Court is called to order. Let the record reflect all
21 parties present when the Court last recessed are again present in
22 court.

23 Captain Tooman, cross-examination?

1 ADC [CPT TOOMAN]: Thank you, Your Honor.

CROSS-EXAMINATION

3 Questions by the assistant defense counsel [CPT TOOMAN]:

4 Q. Good morning, Agent Shaver.

5 A. Good morning, sir.

6 Q. Agent Shaver, I'd like to start out by on direct you talked
7 a little bit about some of the computers that you had associated with
8 my client.

9 A. Yes, sir.

Q. You had associated the .22 machine?

11 A. Yes, sir.

Q. That was one. And the other was the .40 machine?

13 A. Yes, sir.

14 Q. Okay. I want to focus on the .22 machine for just a

15 moment. Now, on that machine, you didn't have any activity that you
16 would associate with my client before 2 March in the allocated space.

17 Is that correct?

18 A. Okay.

19 MJ: Whoa, whoa, whoa.

20 Q. Okay. On the .22 machine there was a user account,
21 Bradley.Manning, correct?

22 A. Correct.

1 Q. And that user account didn't have anything in the
2 unallocated space before 2 March. Is that correct?

3 ATC[CPT MORROW]: Objection.

4 MJ: Yes.

5 ATC[CPT MORROW]: Outside the scope of direct.

6 MJ: Overruled.

7 WIT: Sir, your terminology I believe is incorrect.

8 Q. Okay.

9 A. You're asking -- may I ask? You're asking me are there any
10 files pertaining to the Bradley.Manning user account prior to 2
11 March?

12 Q. 2 March.

13 A. That are allocated.

14 Q. That are unallocated.

15 A. There are ----

16 Q. Let me rephrase the question. In the .22 computer, there's
17 a user account, Bradley.Manning?

18 A. Correct.

19 Q. That user account didn't exist before 2 March, correct?

20 A. Correct.

21 Q. And that user account didn't exist before 2 March because
22 that computer had been re-imaged?

23 A. Correct.

1 Q. And that computer was re-imaged by the G6 or whoever was in
2 charge of those computers?

3 A. That is correct.

4 Q. Okay. And you've been to Iraq?

5 A. Yes, sir.

6 Q. Okay. And you understand that there are a lot of reasons
7 why a computer would be re-imaged in Iraq?

8 A. Correct.

9 Q. It's a difficult environment for the machine?

10 A. Yes, sir.

11 Q. It's hot, that puts stress on the machine? It's dusty,
12 sandy?

13 A. Yes, sir.

14 Q. And those things could cause problems for the machine?

15 A. Correct.

16 Q. And one way that an administrator might deal with those
17 problems is to re-image it?

18 A. Correct.

19 Q. Okay. That's what happened with the .22 machine, correct?

20 A. It appears to be.

21 Q. Okay. And that wasn't anything my client did, that was
22 whoever was in charge of those machines?

23 A. Yes, sir.

1 Q. Okay. Now, you talked about -- on direct you talked about
2 the Intelink logs and the searches, and you talked about how you
3 created the Excel document where you were able to pull out all of the
4 actual searches?

5 A. Yes, sir.

6 Q. And to separate the wheat from the chaff, here are the
7 searches, correct?

8 A. Uh-huh.

9 Q. And you talked about a number of searches for WikiLeaks?

10 A. Yes, sir.

11 Q. You talked about searches for ACIC documents?

12 A. Just WikiLeaks.

13 Q. Okay. Well, you talked about searches or activity on the
14 Intelink logs related to detainee assessments?

15 A. Correct.

16 Q. There were in total from May -- I'm sorry. From November of
17 2006 to May of '10 there were probably close to 800 searches?

18 A. Sounds right.

19 Q. And not all of those had to do with WikiLeaks?

20 A. Correct.

21 Q. A lot of those searches had to do with a lot of other
22 things?

23 A. Yes, sir.

1 Q. And with those Intelink logs, all you can really say is
2 that the .22 machine or the .40 machine did a search for whatever
3 term?

4 A. Correct.

5 Q. You can't say that that was PFC Manning who did the search?

6 A. Correct.

7 Q. You can't say it was Captain Tooman who did the search?

8 A. Correct.

9 Q. You could say if it was you that did the search, but you
10 don't know who did the search?

11 A. Correct.

12 Q. Okay. There were a lot of other searches done?

13 A. Yes, sir.

14 Q. There were searches for gender identity disorder?

15 A. Yes, sir.

16 Q. There were searches for APFT scores?

17 A. Yes, sir.

18 Q. There were searches for Green to Gold?

19 A. Yes, sir.

20 Q. Now, I want to focus on some more of those searches. There
21 were also a number of searches related to CENTCOM, correct?

22 A. Correct.

23 Q. Now, CENTCOM is the command that oversees Iraq, correct?

1 A. Yes, sir.

2 Q. Iraq falls underneath CENTCOM. So there would be a lot of
3 reasons why a computer user might search for CENTCOM?

4 A. Sure.

5 Q. I want to talk about some of those CENTCOM searches a
6 little more specifically. There was a search for CENTCOM on or
7 involving CENTCOM on 30 November 2009. Is that correct?

8 A. Sounds right.

9 Q. There was another search on 9 December for CENTCOM that was
10 done by the 40 machine?

11 A. Okay.

12 Q. Is that -- do you have your ----

13 A. I don't have the notes in front of me, sir.

14 Q. Okay.

15 A. That's ----

16 MJ: Let me ask you to do something, please. If you know
17 something to be a fact and you're agreeing with the questioner, say
18 that. If you don't know or you're not sure because you don't have
19 something in front of you, don't agree.

20 WIT: Okay.

21 Q. Is there anything that would allow you to answer those
22 questions?

23 A. Yes, sir. One of the exhibits from earlier.

1 ADC[CPT TOOMAN]: Okay. Your Honor, I'd like to retrieve
2 Prosecution Exhibit 81 and ask Mr. Shaver -- Agent Shaver to move to
3 the witness stand because I believe that's classified.

4 MJ: All right. Certainly.

5 ADC[CPT TOOMAN]: Handing the witness what's been marked as
6 Prosecution Exhibit 81.

7 Q. Agent Shaver, we'll start over. We'll start from the top
8 with searches that implicate CENTCOM. On the 30th of November we
9 have a search by the .40 machine related to CENTCOM. Is that
10 correct?

11 A. Do you have a time?

12 Q. No, I do not.

13 A. I'm sorry for the delay, Your Honor.

14 MJ: Take your time.

15 WIT: Yes, sir.

16 Q. There's also a search on 9 December by the .40 machine and
17 that's a search for SJA plus CENTCOM?

18 A. Yes, sir.

19 Q. Now on the 15th of November -- I'm sorry -- the 15th of
20 December, again, the .40 machine, we have a search just for CENTCOM?

21 MJ: Did you say the 14th of December?

22 ADC[CPT TOOMAN]: 15th, Your Honor.

23 WIT: Correct. Yes, sir.

1 Q. The very next day, again, the .40 machine searched for
2 CENTCOM plus SJA?

3 A. Yes, sir.

4 Q. Then on the 31st of December the .40 machine searched for
5 CENTCOM plus portal?

6 A. Correct.

7 Q. 2 January 2010, we see the 40 machine searching for CENTCOM
8 plus non-rel, N-O-N-R-E-L?

9 A. Yes, sir.

10 Q. On the 4th the .40 machine searches for CENTCOM?

11 A. Yes, sir.

12 Q. Okay. Then our next search is the 19th of February, still
13 the .40 machine and it's just for CENTCOM?

14 A. What date again was that, sir?

15 Q. 19 February.

16 A. Yes, sir.

17 Q. And then on the 28th?

18 A. Yes, sir.

19 Q. We have one by the .40 machine ----

20 A. Yes, sir.

21 Q. ---- as well? And that's a search for CENTCOM?

22 A. On 28 February, yes, sir.

1 Q. Then on 12 March, we see our first search from the .22
2 machine, and that's for a long string, but you would agree with me
3 that that is basically searching for Don't Ask, Don't Tell?

4 A. Yes, sir.

5 Q. Then on the 17th of March, the 22 machine searches for,
6 again, another long string E-Books plus site, %3?

7 A. Yes, sir, I see that one, sir.

8 Q. Okay. And then on the 22nd of March we see a search for
9 Farah+CENTCOM, and that was the 22 machine?

10 A. Yes, sir.

11 ADC[CPT TOOMAN]: Agent Shaver I'm going to retrieve that
12 exhibit from you. Handing Prosecution Exhibit 81 back to the court
13 reporter.

14 Q. Now, Agent Shaver, those were the only searches for CENTCOM
15 on the Intelink logs that specifically talked about CENTCOM, correct?

16 A. It looks that way, yes, sir.

17 Q. And there was only one that specifically searched for
18 Farah?

19 A. Correct.

20 Q. And that was on 22 March?

21 A. Yes.

22 Q. Agent Shaver, I want to talk a little bit more about Farah.
23 You talked on direct about there are ways that we can tell, you can

1 tell a search was done, but we can't really tell what happened after
2 that. Is that correct?

3 A. That is correct.

4 Q. There's some indication that maybe a file was viewed, but
5 we have to look other places to find out what happened as a result of
6 that search, correct?

7 A. Correct.

8 Q. And one of those places would be Centaur logs. Is that
9 correct?

10 A. Yes.

11 Q. Could you explain for the Court what a Centaur log is?

12 A. Yes, sir.

13 ATC[CPT MORROW]: Your Honor, objection.

14 MJ: Yes.

15 ATC[CPT MORROW]: There's been no evidence to suggest that he
16 examined something called a Centaur log. Lack of foundation here.
17 It's outside the scope of direct examination.

18 MJ: How is it within the scope of direct examination?

19 ADC[CPT TOOMAN]: It's within the scope of direct examination,
20 Your Honor, because the government talked about searches and then
21 different ways that we can see what happened with the searches.
22 Additionally, the government has already requested judicial notice of
23 the Centaur logs so that's already something the Court has

1 considered. This witness has reviewed the Centaur logs, he will talk
2 about that.

3 MJ: I'm going to overrule at this point. He's just telling me
4 what a Centaur log is. Do you dispute the fact that he does know
5 what it is?

6 ATC[CPT MORROW]: No, Your Honor. I do dispute the fact that
7 we asked you to take judicial notice of the Centaur logs though.

8 MJ: Do you have your consolidated judicial notice list has that
9 been put on as an appellate exhibit yet?

10 ADC[CPT TOOMAN]: Your Honor, it's in the 18 July 2012 ruling,
11 Appellate Exhibit 216.

12 MJ: May I see Appellate Exhibit 216, please? 216 is the one
13 you're relying on, right?

14 ADC[CPT TOOMAN]: Yes, ma'am.

15 MJ: All right. Thank you. Government, I'm looking at
16 Appellate Exhibit 216. Number 4 talks about Centaur logs.

17 TC[MAJ FEIN]: Yes, ma'am. So this was a government motion to
18 preamit evidence, not judicial notice. The government did move to
19 preamit and the Court ruled that based off the government's showing
20 of relevance that this evidence would otherwise be admissible. The
21 government does intend to admit this evidence, in fact, with the
22 predicate witnesses prior to Special Agent Shaver and then Special
23 Agent Shaver's testimony. I think my co-counsel's objection was just

1 based off it's outside the scope of this direct because there's no
2 context, no foundation, prior facts not going to understand that the
3 background is Centaur.

4 MJ: So you're going to be recalling this witness to talk about
5 Centaur logs at some point?

6 TC[MAJ FEIN]: Absolutely, Your Honor.

7 MJ: Why are we getting into it now?

8 ADC[CPT TOOMAN]: Your Honor, the defense believes that the
9 government opened the door to Agent Shaver's investigation and we'd
10 like to talk to him about it.

11 MJ: The government didn't mention anything about Centaur logs,
12 so are you waiving your relevance objection for these logs to come
13 in?

14 ADC[CPT TOOMAN]: Yes, Your Honor.

15 TC[MAJ FEIN]: You would?

16 ADC[CPT TOOMAN]: Yes, Your Honor.

17 MJ: I think it's beyond the scope of direct. The government
18 just didn't talk about it, so I'm going to sustain the objection.

19 ADC[CPT TOOMAN]: Okay.

20 **Questions continued by the assistant defense counsel [CPT TOOMAN]:**

21 Q. Okay, Agent Shaver, I'd like to talk to you, you spoke on
22 direct about the ACIC report?

23 A. Yes, sir.

1 Q. And you saw a number of searches for that. One was on 29
2 December, there was one on 14 February?

3 A. Correct.

4 Q. And then there were two on 1 March, correct?

5 A. Yes.

6 Q. Your testimony on direct was only one of those searches was
7 successful and that only one time did something get pulled up?

8 A. No, sir, your ----

9 Q. Okay.

10 A. I could show, number one, the first hit was a success. The
11 other ones are redirected. I don't know if they're successful.
12 They're redirected to another log file, another server. I cannot
13 tell you if it was either successful or it was not.

14 Q. Okay. So only that first search could you say for sure
15 this was successful?

16 A. Correct.

17 Q. Now, based on your review of the intel logs, you couldn't
18 say if that document was downloaded, correct?

19 A. It was viewed, so technically it was downloaded because you
20 see the bytes transferred. It was viewed upon the computer itself.

21 Q. Okay. You couldn't tell if there was a right click, save
22 as?

23 A. No, sir.

1 Q. You couldn't tell if it was printed?

2 A. No, sir.

3 Q. Okay. You also couldn't tell how long that screen was up,
4 correct?

5 A. Correct.

6 Q. So it could have been up for a second, it could have been
7 up for 5 minutes?

8 A. Correct.

9 Q. The same would be true for the C3 report that you talked
10 about on direct as well, correct?

11 A. Correct.

12 Q. You can't tell how long it was viewed. Is that correct?

13 A. Correct.

14 Q. You can't tell if it was saved?

15 A. Correct.

16 Q. You also couldn't tell if it was printed?

17 A. That's correct.

18 Q. And I believe you said that the 22 machine is the one that
19 did those things. Either way you can't associate the viewing of
20 those documents with any particular person, correct?

21 A. Correct.

22 Q. Just with the machine.

23 A. Correct.

1 Q. I'd like to speak with you, you talked about WGet on
2 direct. I'd like to talk to you now about that. You would agree
3 with me that WGet is a program that's used to download web pages?

4 A. Yes, sir.

5 Q. Kind of archive pages?

6 A. Sure.

7 Q. Download things?

8 A. Sure.

9 Q. You wouldn't say that this is a program that's synonymous
10 with hacking, would you?

11 A. Correct. It's just a tool.

12 Q. Just a normal program that's used every day by a lot of
13 different people?

14 A. Yes, sir.

15 Q. Now, you talked about detainee assessment briefs?

16 A. Yes, sir.

17 Q. And you talked about the Intelink's logs show that on 5
18 March there were attempts from your perspective of clicking, opening
19 and saving, that's what the Intelink log suggested?

20 A. Correct.

21 Q. And then on 7 March you had, again, activity with the
22 detainee assessment briefs, but here it looked like WGet was used to
23 download those files, correct?

1 A. Yes, sir.

2 Q. You would agree with me that basically what WGet was doing
3 was clicking, opening and saving, it was just doing it quickly?

4 A. In automated fashion.

5 Q. Faster than a human could do it?

6 A. Yes.

7 Q. But still the same action, essentially the click, open,
8 save?

9 A. Correct.

10 Q. Now, as part of your investigation, you actually used WGet,
11 didn't you?

12 A. Yes, sir, I did.

13 Q. And what you did with WGet was you tried to download -- you
14 wanted to see if you could download the detainee assessment briefs?

15 A. Correct.

16 Q. And you were able to do that?

17 A. Yes, sir.

18 Q. And what you did was you wrote a script and you ran the
19 script and then you actually downloaded the detainee assessment
20 briefs?

21 A. Yes, sir.

22 Q. And that only took you a few minutes to do?

23 A. Yes, sir. It did not take very long.

1 Q. It didn't take very long to download over 700 detainee
2 assessment briefs?

3 A. Correct.

4 Q. And while that was happening, you were able to do other
5 things on your machine?

6 A. Yes, sir.

7 Q. So one could run WGet and it would run in the background
8 and you could do other things?

9 A. Yes, sir. You would take a performance hit, but, yes.

10 Q. Sure. When WGet's running, you don't have to actually be
11 there, do you? You don't have to be sitting at the computer actively
12 doing anything, correct?

13 A. No, sir.

14 Q. And, again, it basically just automates the click, save --
15 or click, open, save?

16 A. Correct.

17 ADC[CPT TOOMAN]: No further questions, Your Honor.

18 MJ: All right. Redirect.

19 ATC[CPT MORROW]: No, Your Honor.

20 MJ: All right. I have a couple.

21 [END OF PAGE]

22

1 EXAMINATION BY THE COURT-MARTIAL

2 Questions by the military judge:

3 Q. We talked earlier about the 200 means it's successful?

4 A. Uh, huh.

5 Q. And the 000 means there's a problem?

6 A. There's an issue.

7 Q. And we talked -- You just said in response to Captain
8 Tooman's questions that when a search is redirected to somewhere
9 else, you don't know what happens to it. Can you just tell me, like
10 give me an example of a search, you would search for something and it
11 would go somewhere else and what happens?

12 A. Yes, ma'am. So are you familiar with Google?

13 Q. Yes.

14 A. So you open Google and you put in Wolf Blitzer, it takes
15 you to the CNN web page and now you're on the CNN web page. Google
16 is no longer tracking what you're doing on CNN, but the redirect took
17 you there. And in this instance that RB -- the RB document was
18 directed to another site, and once it's on the other site it's no
19 longer part of Intelink. Does that make sense?

20 Q. Yes. Thank you. You testified earlier that to assess
21 whether a program is authorized on an Army computer, I just want to
22 make sure I got your testimony correctly. What did you use the Army
23 Gold Master's program to determine?

1 A. We used that -- excuse me. When I worked at CCIU, we would
2 use that to determine what are the authorized programs, those are the
3 Army programs that are commonly available to the computers, to the
4 computers on the Army network. WGet was never part of those.

5 Q. If you're not the right witness to ask this question to,
6 tell me. Are you familiar with, does that program say that if it's
7 not on here, you can't use it or you can't put it on the computer?

8 A. No, ma'am. That would be considered a certificate of
9 networthiness, also called a CON. That's where -- That would be the
10 final authority on what's authorized and what is unauthorized.

11 Q. I'm beginning to stray into areas that the government
12 mentioned on their direct, but were not fully explored. Any
13 objection to my continuing to question this witness about them?

14 ATC[CPT MORROW]: No, Your Honor.

15 ADC[CPT TOOMAN]: No, ma'am.

16 Q. All right. So, tell me what that was called again, a
17 certificate of ----

18 A. Networthiness. It's commonly referred to as a CON, C-O-N.

19 Q. Assume I'm a computer user and I want to -- how do I go
20 about obtaining a CON?

21 A. It is a process through one of the Army CERTS, the Army
22 Regional Computer Emergency Response Team at Fort Huachuca, Arizona.
23 You would put in a request to use a piece of software on the Army

1 network. They would evaluate it to make sure it's not -- it meets
2 certain criteria, whether you have to pay for it, what it does on the
3 network, does it create a vulnerability on the network. And then
4 they would eventually get back to you and say yes or no.

5 Q. The Army sometimes structures automation such that the user
6 does not have administrative rights to insert -- to add things in the
7 computers that you examined that you testified about today, could the
8 user -- did the user have administrative rights to add whatever they
9 wanted to?

10 A. No, ma'am, they do not. However, WGet is the -- the
11 executable itself does not need administrative privileges to run, so
12 you can use, anybody can download it, anybody can run it.

13 Q. Are you aware of any specific authorization of or
14 prohibition of program WGet?

15 A. When I looked at the certificate of networthiness, WGet was
16 not on that list.

17 Q. So that certificate is one certificate of ----

18 A. It's the -- The CON itself is one -- the one I saw was an
19 Excel spreadsheet of what was authorized and what was not authorized
20 for the Army network. I was looking at it for another matter. I
21 obtained it for another case. But WGet was not present on that CON.

22 Q. And that CON was applicable for what, a particular unit or
23 geographic area?

1 A. As far as I know, the Army.

2 MJ: Any follow-up questions from either side based on my
3 questions?

4 ATC[CPT MORROW]: One moment, Your Honor. Just a couple of
5 questions, Your Honor.

REDIRECT EXAMINATION

7 Questions by the assistant trial counsel [CPT MORROW]:

8 Q. Agent Shaver, when someone searches for something on the
9 SIPRNET, and we've probably have gone over this again, but what does
10 the resulting, at least if you're on the Intelink server, what does
11 the resulting activity show in the logs?

13 A It would show any hits pertinent to the search you put in.

Now, when you say bits, what do you mean by that?

14 A. Again, it's basically Google, so if you put a keyword in,
15 again, let's go back to Wolf Blitzer, all the hits -- everything that
16 pops up would be pertinent to the key term Wolf Blitzer.

Q. So you would have a number of results?

18 A Yes sir

19 Q. And if you clicked on one of those results, what would
20 happen?

21 A. Say for -- It would take you to the website or the document
22 pertaining to that information.

1 Q. Now, if it took you to the website or document pertaining
2 to that information, would that activity always be captured by the
3 Intelink logs?

4 A. No, sir.

5 Q. And why is that?

6 A. Depends, sir. Depends where the document is located.
7 Again, if it's not on -- if it's on another website it would be
8 captured -- that information would be captured on that other website.

9 Q. Agent Shaver, when you were talking about the certificate
10 of networthiness, what type of computer were you referring to?

11 A. A Windows computer.

12 Q. But SIPRNET, NIPRNET, what were you talking about?

13 A. Either or.

14 Q. Now have you seen the certificate of networthiness for a
15 DCGS Alpha computer?

16 A. No, sir, I have not.

17 Q. And where does WGet come from, where does someone acquire
18 or obtain the WGet program?

19 A. You would find it on the -- you would search for it on the
20 Internet and find it on the Internet.

21 Q. So it's available to anyone on the Internet?

22 A. That's correct.

1 Q. And if you were to put a program or an executable like WGet
2 on a computer, and you wanted it to be available to all the users of
3 that computer, anyone who logged in, where would you put it on the
4 computer?

5 A. Program files.

6 Q. And why would you put it in the program files if you wanted
7 it to be available to all the users of that computer?

8 A. It's a permission issue. So everybody would have access to
9 it. They can all execute to that document. If for example you put
10 it in a user profile, one user profile just due to permissions cannot
11 see the contents of another user for security reasons.

12 Q. So a computer may have any number of user profiles because,
13 at least in the government, people share computers, right?

14 A. Yes, sir.

15 ATC[CPT MORROW]: Okay. Thank you.

16 ADC[CPT TOOMAN]: Just a couple, Your Honor.

17 RECROSS-EXAMINATION

18 **Questions by the assistant defense counsel [CPT TOOMAN]:**

19 Q. Agent Shaver.

20 A. Sir.

21 Q. You spoke about the Army Gold Master's Program. The Army
22 Gold Master Program, they don't review every program or software
23 executable file that exists, correct?

1 A. The Army Gold Master is just a disk of software they
2 provide, the Army provides to the users.

3 Q. Well, the Army doesn't review every single file or piece of
4 software type of executable file to determine whether or not there's
5 a certificate of networthiness for it, correct? Did it look at
6 everything?

7 A. Everything in the world or everything ----

8 Q. Everything in the world.

9 A. No.

10 Q. So the fact that there isn't a certificate of networthiness
11 doesn't necessarily mean that it would be a problem to have it on the
12 Army system?

13 A. Technically as I understand it, technically you would need
14 an exception to policy. It's the Army. You would just have an
15 exception of policy to run a specific program on a specific network
16 for a specific reason. There would be a signed document for that.

17 Q. And I guess a certificate of networthiness or the lack of a
18 certificate of networthiness doesn't mean if the program were
19 reviewed it wouldn't get one?

20 A. Correct.

21 Q. Now, you talked about WGet. WGet is an executable file,
22 correct?

23 A. That's correct.

1 Q. And you double click on it, it opens, and it runs, correct?

2 A. You would have to -- Again, it's a command line, so if you
3 double click on it, a black window would open and close very quickly
4 and not do anything. You have to do it from the command line.

5 Q. Okay. Well, you would agree with me that it's an
6 executable file?

7 A. Yes, sir.

8 Q. And Army systems can be configured to prevent the running
9 of executable files?

10 A. Yes.

11 Q. Now, you talked about where an individual can put a file if
12 they add something to their machine. They could put it in their own
13 personal user file or it could get added to program files, correct?

14 A. Correct.

15 Q. If I wanted to add something to the program files, I would
16 need administrative rights for that, wouldn't I?

17 A. That's correct.

18 ADC[CPT TOOMAN]: Nothing further, Your Honor. Thank you.

19 MJ: Any redirect from the government?

20 ATC[CPT MORROW]: No, Your Honor.

21 [END OF PAGE]

22

EXAMINATION BY THE COURT-MARTIAL

2 Questions by the military judge:

3 Q. Let me just make sure I'm clear on this. Based on the last
4 question from Captain Tooman, am I understanding this WGet program
5 was in the user files as opposed to the programs file on the
6 computers you found?

7 A. Correct.

8 Q. If the user attempted to put WGet on the programs file,
9 what would have happened?

10 A. They would ask for permission. They would ask for
11 administrator privilege or account to do this.

12 Q. Assume -- Well, did the user in this case have an
13 administrative privilege account?

14 A. Nozaki

15 Q. If the user tried to put that program on a program drive
16 without going through that process that you just described, would the
17 computer let him?

18 A. No.

19 MJ: All right. Any further questions based on mine

ATC [CPT MORROW]: No, Your Honor.

21 ADC [CPT TOOMAN]: No, ma'am.

22 MJ: All right. Temporarily excusal?

ATC [CPT MORROW]: Temporary, Your Honor.

1 [The witness was temporarily excused, duly warned, and withdrew from
2 the courtroom.]

3 ATC[CPT WHYTE]: Ma'am, the United States calls Mr. Chad
4 Madaras.

5 CHAD MADARAS, was called as a witness for the prosecution, was sworn,
6 and testified as follows:

7 DIRECT EXAMINATION

8 Questions by the assistant trial counsel [CPT WHYTE]:

9 Q. You are Chad Madaras from Caseville, New York?

10 A. Yes, sir.

11 Q. Mr. Madaras, what is your current military status?

12 A. I'm inactive ready reserves, sir.

13 Q. When did you leave the military?

14 A. January 16th 2013.

15 Q. And how long did you serve for?

16 A. Approximately 6 years, sir.

17 Q. What was your MOS during that time?

18 A. I was a 35 Fox Intel Analyst.

19 Q. For the entire 6 years?

20 A. Yes, sir.

21 Q. And where were you stationed?

22 A. At Fort Drum.

23 Q. Do you remember when you arrived at Fort Drum?

- 1 A. November of 2007.
- 2 Q. When you arrived what unit were you assigned to?
- 3 A. Second Brigade, sir.
- 4 Q. Of 10th Mountain Division?
- 5 A. Yes, sir.
- 6 Q. And how did you know PFC Manning at Fort Drum?
- 7 A. I didn't really know him that well at Fort Drum. I had
- 8 just met him once in the smoking area outside our barracks.
- 9 Q. Did you deploy out of Fort Drum?
- 10 A. Yes, sir.
- 11 Q. And what pre-deployment training did you receive?
- 12 A. I had two JRTC rotations and a DCGS-A course.
- 13 Q. The JRTC, when were those?
- 14 A. October of 2008 and July of 2009, sir.
- 15 Q. Did PFC Manning attend both of those with you?
- 16 A. From the best of my recollection, yes.
- 17 Q. And you mentioned a DCGS training. Can you explain what
- 18 that consisted of?
- 19 A. We had a DCGS course that just covered all the fundamentals
- 20 of a DCGS machine, multi-function work station and how to use all the
- 21 components of it.
- 22 Q. Did PFC Manning attend that with you?
- 23 A. Yes, he did.

1 Q. At this training what were you taught about who was
2 responsible for handling the DCGS machine in theater?

3 A. We were told we have a DCGS FSR downrange with us that
4 would take care of anything DCGS-A related.

5 Q. And what is an FSR?

6 A. Field Support Representative, sir.

7 Q. How long is this training on the DCGS machine?

8 A. It was a week long, sir.

9 Q. So where did you deploy from Second Brigade, or From Fort
10 Drum?

11 A. What was that, sir?

12 Q. Where did you deploy to from Fort Drum?

13 A. FOB Hammer, Iraq, sir.

14 Q. Did PFC Manning deploy to Hammer as well?

15 A. Yes, sir.

16 Q. Do you remember when you arrived at FOB Hammer?

17 A. Sometime around October 15th 2009.

18 Q. Do your remember when PFC Manning arrived?

19 A. It would be about a week or two later, sir.

20 Q. Where did you work at FOB Hammer?

21 A. In the Brigade SCIF.

22 Q. Where did PFC Manning work?

23 A. In the Brigade SCIF also.

1 Q. And what cell within the -- or what section were you
2 assigned to?

3 A. We were Fusion Cell, part of the Shia team.

4 Q. What do you mean by we?

5 A. Me and PFC Manning.

6 Q. So you both were Shia ----

7 A. Yes, sir.

8 Q. ---- Intel Analysts working in the SCIF?

9 A. Yes, sir.

10 Q. What shift did you work on?

11 A. I worked day shift.

12 Q. And what shift did Manning work on?

13 A. The night shift.

14 Q. What type of computer did you use at FOB Hammer?

15 A. We used DCGS-A laptop, Dell.

16 Q. And how many computers did you have at your work station in
17 the SCIF?

18 A. Just one, sir.

19 Q. And who did you share that work station with?

20 A. I shared it with PFC Manning.

21 Q. What network was this DCGS machine hooked up to?

22 A. It was on the SIPRNET work, sir.

23 Q. And who did you share this DCGS SIPRNET machine with?

- 1 A. With PFC Manning.
- 2 Q. For how long did you share this?
- 3 A. For about 6 months.
- 4 Q. So, when in the deployment did you share this?
- 5 A. When we first took over all the way up until around the
- 6 March timeframe, sir.
- 7 Q. So let's just talk about when you were actually in the
- 8 SCIF, just to give the Court a time line. You said you arrived 15
- 9 October 2009?
- 10 A. Yes, sir.
- 11 Q. When was the first time that you left the SCIF?
- 12 A. Just before Christmas of 2009.
- 13 Q. And where did you go?
- 14 A. I went to BIAP.
- 15 Q. And where -- how long was this?
- 16 A. It was about a week long.
- 17 Q. And then you returned back to FOB ----
- 18 A. Yes, sir.
- 19 Q. ---- Hammer working in the SCIF?
- 20 A. Yes, sir.
- 21 Q. When did you next leave FOB Hammer?
- 22 A. I left around January 27th or 28th, when I went on R and R.
- 23 Q. And how long were you gone for?

1 A. I returned around February 15th.

2 Q. What about the next time you left FOB Hammer?

3 A. I left in March for the parliamentary elections of Iraq.

4 Q. And how long were you gone for?

5 A. For a week again, sir.

6 Q. So when did you stop working in the SCIF?

7 A. Around the end of May, beginning of June, sir.

8 Q. Are you familiar with Intelink?

9 A. Yes, sir.

10 Q. What is Intelink?

11 A. It's a separate search engine like Google within SIPR.

12 Q. Did you use Intelink as a 35 Fox?

13 A. Yes, sir.

14 Q. So, what are some of the benefits of using Intelink as a 35

15 Fox?

16 A. If you didn't have a lot of information on somebody or a

17 name came up in a report that you weren't really sure, you could just

18 throw it in there to see if you got any hits right off the bat.

19 ATC[CPT WHYTE]: Let the record reflect that I'm retrieving

20 Prosecution Exhibit 81 from the court reporter.

21 CDC[MR. COOMBS]: Your Honor, to the extent that the

22 government is going to use 81 to ask this witness did he do any of

1 those searches, we would stipulate that he did not do any of those
2 searches.

3 MJ: All right. Is that where you were going with this?

4 ATC[CPT WHYTE]: Yes, Your Honor. But it may be helpful to
5 the Court to actually hear what searches Mr. Madaras did not search.

6 TC[MAJ FEIN]: May we have a moment, Your Honor?

7 MJ: Why? Okay.

8 [There was a pause while the trial counsel consulted with the
9 assistant trial counsel.]

10 MJ: Why would it be beneficial? If the defense is stipulating
11 that the witness did not do any of those searches, why would it be
12 beneficial for me to listen to the particular searches that he did
13 not do?

14 ATC[CPT WHYTE]: Yes, ma'am. Never mind, we will not ask
15 that witness.

16 MJ: Proceed.

17 Questions continued by the assistant trial counsel [CPT WHYTE]:

18 Q. Mr. Madaras, did you use CIDNE-Iraq to pull intelligence?

19 A. Yes, sir.

20 Q. Are you aware if there's a CIDNE-Afghanistan?

21 A. There is, sir.

22 Q. Did you use CIDNE-Afghanistan?

23 A. No, sir.

1 Q. Why not?

2 A. It did not really pertain to anything we were doing in our
3 area.

4 Q. Did you use Net-Centric diplomacy to search for any
5 intelligence?

6 A. No, sir.

7 Q. Did you pull any Department of State cables?

8 A. No, sir.

9 Q. What region of the world were you focused on when you were
10 at FOB Hammer?

11 A. Eastern Baghdad.

12 Q. Did you ever search for intelligence on Iceland?

13 A. No, sir.

14 Q. How about South America?

15 A. No, sir.

16 Q. Europe?

17 A. No, sir.

18 Q. Africa?

19 A. No, sir.

20 Q. East Asia?

21 A. No.

22 Q. And why not?

1 A. It did not pertain to anything we were doing in eastern
2 Baghdad.

3 Q. Are you familiar with WGet?

4 A. No, sir.

5 Q. Let's talk about some of the issues that you had with your
6 computer when you were at FOB Hammer. During your deployment explain
7 what type of problems you had with your computer at FOB Hammer?

8 A. The computer used to crash on a regular basis or operate
9 really, really slowly to the point where it was difficult to get any
10 work done.

11 Q. And how often did you have these computer problems?

12 A. About twice a week.

13 Q. So can you please explain to the Court during those two
14 times per week you showed up for a shift change, what happened?

15 A. When I'd log on to the computer, it would run really slow,
16 wouldn't really load up anything that I was trying to use to complete
17 my work, and then sometimes it would just completely crash.

18 Q. And when did you notice these computer problems?

19 A. It was right off the bat at the beginning of shift.

20 Q. So what would you do when you had these computer problems?

21 A. I'd get Alan Milliman and have him to work on the machine.

22 Q. And who was Mr. Milliman?

23 A. He was our DCGS FSR.

1 Q. What would Mr. Milliman do to fix the machines?

2 A. He'd usually have to re-image the system.

3 Q. After Mr. Milliman worked on the computer, can you describe

4 how the computer operated?

5 A. It would operate like brand new again.

6 Q. How did it operate for the remainder of your shift?

7 A. It would operate well.

8 Q. What about the following day?

9 A. It would slowly start to deteriorate.

10 Q. How many times did Mr. Milliman re-image your computer?

11 A. Probably about five times, sir.

12 Q. And what was your understanding of why you were having

13 these computer problems?

14 CDC[MR. COOMBS]: Objection, Your Honor. Calls for hearsay.

15 MJ: Is -- Did this witness get his understanding from somebody

16 else?

17 ATC[CPT WHYTE]: Yes, Your Honor.

18 MJ: What's the hearsay exception?

19 ATC[CPT WHYTE]: It's actually not for the truth of the

20 matter asserted. It's effect on the listener, what Mr. Madaras did

21 in response to that.

22 MJ: And the question was again?

1 ATC[CPT WHYTE]: The question was what was your understanding
2 as to why you were having these computer problems.

3 MJ: Why don't you just ask him after you understood why you
4 were having the computer problems what did you do next?

5 **Questions continued by the assistant trial counsel [CPT WHYTE]:**

6 Q. After you understood -- After you knew that you were having
7 these computer problems, what did you do next?

8 A. I asked PFC Manning to try to remove some of the unneeded
9 documents off his desktop, and I also did so myself.

10 Q. Did you look at PFC Manning's desktop?

11 A. I couldn't see the desktop, but I could see the file size.

12 Q. And how would you describe the file size?

13 A. It was very large.

14 Q. What did you store on your desktop?

15 A. I would store any project that I was currently working on,
16 so Power Points and any reports that I needed to work on the project.

17 Q. So what did you do to reduce your desktop size?

18 A. Anything that was from previous project I was working on I
19 went ahead and I deleted them, got rid of them.

20 Q. So after you told PFC Manning to limit the amount on his
21 desktop, did you have problems after that?

22 A. Yes, I still did.

1 Q. How did your computer problems affect your ability to work
2 at FOB Hammer?

3 A. It would take about 2 hours of my work schedule for Alan to
4 figure out what was wrong with it, and if he had to re-image it it
5 would take approximately 2 hours.

6 Q. And how often did other 35 Foxes have problems with their
7 computers?

A. Everybody had one about once throughout their entire deployment.

10 Q. Do you remember when you stopped sharing a computer with
11 PFC Mapping?

12 A. It was when I returned from the elections in March of 2010.

ATC [CPT WHYTE]: No further questions. Your Honor,

14 M.T.: Defense? Proceed.

CROSS-EXAMINATION

¹⁶ Questions by the civilian defense counsel. [MR. COOMBS]:

17 Q. Sergeant Madaras, well, I'm sorry I got used to calling you
18 Sergeant Madaras. Mr. Madaras, you first met PFC Manning in 2008?

18 A Yes sir

20 Q. And this was out in a smoking area outside the barracks at
21 Fort Drum?

22 A Correct size

1 Q. And based upon those times that you spoke with PFC Manning,
2 you recall him being interested in U.S. politics?

3 A. Yes, sir.

4 Q. And the way he talked, you got the impression that he was
5 interested in going into politics?

6 A. Not that I can remember, sir.

7 Q. Do you recall telling me that based upon the way he talked
8 you got the impression that he was interested in going in?

9 A. No, sir.

10 Q. And during those times that you spoke with him, he never
11 said anything that gave you the impression that ----

12 TC[MAJ FEIN]: Objection, Your Honor. Hearsay.

13 MJ: Yes.

14 CDC[MR. COOMBS]: I'm not asking for a response, I'm asking
15 for -- if I could finish my question, and then I think the objection
16 may be appropriate to ----

17 MJ: What is the question?

18 CDC[MR. COOMBS]: ---- make it at that point. During the
19 times you spoke with him, he never gave you the impression that he
20 held any anti-American positions.

21 MJ: All right. I'll allow that. Go ahead.

22

23

1 Questions continued by the civilian defense counsel [MR. COOMBS]:

2 A. No, sir.

3 Q. Now, you and PFC Manning both went to JRTC in 2009?

4 A. Yes, sir.

5 Q. And JRTC was the training that you received in preparation
6 for deployment to Iraq?

7 A. Yes, sir.

8 Q. And at JRTC the two of you worked opposite shifts?

9 A. Correct, sir.

10 Q. You worked the night shift?

11 A. Yes, sir.

12 Q. And PFC Manning worked the day shift?

13 A. Yes, sir.

14 Q. And at JRTC, PFC Manning was in charge of working on the
15 company's computers if there was any problems?

16 A. I don't know if he was in charge of working on the
17 computers, sir, but he may have worked on computers, yes.

18 Q. All right. Well let's go with what you -- you know he
19 worked on the company's computers at JRTC?

20 A. Yes, sir.

21 Q. He unlocked some of the computer passwords for the S-2
22 section?

23 A. Not that I remember at this time, sir. I don't know.

1 Q. Do you recall telling me that he unlocked ----

2 A. I don't remember.

3 Q. Let me finish my question. Do you recall telling me that
4 he unlocked some of the computer passwords at the S-2 section?

5 A. I do not remember that, sir.

6 Q. When you say you don't remember, are you saying I don't
7 remember now because my memory is failing, or I don't remember it
8 because I don't think I ever said that to you?

9 A. I don't remember it because memory is failing from that
10 long ago, sir.

11 Q. Okay. Now, the times in which he was working on the
12 computers, did anyone to your memory go in and say, stop, you're not
13 permitted to do that?

14 A. No, sir.

15 Q. And he was very good at working on the computers, correct?

16 A. Yes, sir.

17 Q. And what type of computers did you work off as an analyst
18 at JRTC?

19 A. DCGS-A computers.

20 Q. Now, in Iraq you also had DCGS-A computers, correct?

21 A. Yes, sir.

22 Q. And you're not really a computer guy, is that right?

23 A. Correct.

1 Q. You don't know much about computers beyond basically the
2 basic operating system?

3 A. Correct, sir.

4 Q. But you knew that PFC Manning would occasionally work on
5 the DCGS-A computers in Iraq?

6 A. Possibly, sir.

7 Q. Possibly meaning what? I'm sorry.

8 A. It's possible that he did. I don't remember.

9 Q. And I'm sorry to pin you down. Are you saying you don't
10 remember because so much time has gone by, or are you saying you
11 don't remember because you don't believe he ever worked on the DCGS-A
12 computers?

13 A. So much time has gone by.

14 Q. You don't recall that?

15 A. I don't recall, yes.

16 Q. Do you ever recall telling me that on the phone?

17 A. No.

18 Q. Now, did you -- do you recall telling me that you saw him
19 go into the operating system and try to make the computer run faster?

20 A. No, sir.

21 Q. You don't recall telling me that?

22 A. No, sir.

1 Q. We talked a little over now about 2 and a half weeks ago.

2 You don't recall telling me that at that point?

3 A. I didn't talk to you about 2 and a half weeks ago, sir.

4 Q. When's the last time you recall?

5 A. It was probably about 2 years ago before the Article 32
6 hearing was the last time I recall talking to you.

7 Q. That's the last time you recall talking to me?

8 A. Yes, sir.

9 Q. Okay. Do you recall telling me that you witnessed him go
10 into the task manager and change what programs are running and how
11 they started?

12 A. I'm not sure, sir.

13 Q. Not sure meaning you don't recall that?

14 A. Meaning I don't recall, sir.

15 Q. Okay. Do you recall telling me that you witnessed him help
16 others with their DCGS-A computers?

17 A. Yes, sir.

18 Q. All right. And we'll talk about that in a moment, but when
19 he was helping others, no one stepped in and said, hey, you can't do
20 that, that's not permitted?

21 A. Correct, sir.

22 Q. Now, you said your computer would crash occasionally?

23 A. Yes, sir.

1 Q. And sometimes I imagine when it crashed you lost
2 information?

3 A. Yes, sir.

4 Q. So would you agree with me that analysts were encouraged to
5 save information on the T-drive?

6 A. Yes, sir.

7 Q. And the T-drive was the shared drive that everyone had
8 access to?

9 A. Yes, sir.

10 Q. And analysts were also encouraged if they wanted to save
11 information on a CD?

12 A. Yes, sir.

13 Q. And, of course, because it was your computer, your DCGS-A
14 computer, you would save information on the desktop of your computer
15 if you wanted?

16 A. Yes, sir.

17 Q. That was permitted?

18 A. Yes, sir.

19 Q. Now, I want to talk about some of the times you witnessed
20 others being helped by PFC Manning on the DCGS-A computer, okay?

21 A. Yes, sir.

22 Q. Now, the first time -- well, actually one of the times was
23 dealing with mIRC chat, is that correct?

1 A. Yes, sir.

2 Q. And mIRC chat is one of those baseline programs that you
3 didn't have on your DCGS-A computer, right?

4 A. Correct, sir.

5 Q. But analysts needed mIRC chat to do their job?

6 A. Correct.

7 Q. And that's because you as an analyst in the S-2 section
8 would speak to others who were using mIRC chat?

9 A. Correct.

10 Q. So do you recall having PFC Manning set up mIRC chat on
11 your computer?

12 A. Yes, sir.

13 Q. And do you recall him doing that for others?

14 A. Yes, sir.

15 Q. And mIRC chat, when you did that, it was put on your
16 computer basically as something that you would double click to start
17 on the desktop?

18 A. Yes, sir.

19 Q. And you're sure PFC Manning did this and not Mr. Milliman?

20 A. Yes, sir.

21 Q. And when PFC Manning did this for you and others, did
22 anyone step in, to your memory, and say, hey, that's not permitted?

23 A. No, sir.

1 Q. Now, at Fort Drum you attended DCGS-A training with PFC
2 Manning?

3 A. Correct.

4 Q. And do you recall who taught this training to you?

5 A. I do not, sir.

6 Q. Does MIT teams sound correct to you?

7 A. Yes, sir, it would.

8 Q. And do you recall what a MIT team was?

9 A. No, I don't.

10 Q. Did you ever receive any training on what you could and
11 could not add on the desktop of your DCGS-A computer?

12 A. Not that I recall.

13 Q. And just for the judge, I want to make sure it's not that
14 you recall, meaning I can't remember if we did, or I don't remember
15 we ever did receive that training?

16 A. Yeah. I don't remember, sir.

17 Q. All right. Did you ever receive any training discussing
18 what you could and could not place on your desktop like mIRC chat,
19 like an executable file?

20 A. No, I do not.

21 Q. And, again, is that you don't remember that, or you don't
22 believe you received that training?

23 A. I don't believe we received that training.

1 Q. Okay. And during the deployment did anyone say to you that
2 you could not put mIRC chat on your desktop as an executable file?

3 A. No, they did not.

4 Q. Did you receive any training either at Fort Drum or during
5 the deployment on how you had to download information from the
6 SIPRNET?

7 A. Not that I remember, sir.

8 Q. Was there any formal, you know, guidance or statement to
9 you that you had to download information in one particular way, like
10 click, open, save?

11 A. No.

12 Q. Do you know what exporting with Excel is?

13 A. Yes, sir.

14 Q. And could you tell the judge what that is?

15 A. You'd take a document and export it into Excel, is that the
16 one you're ----

17 Q. Yes.

18 A. And then it would make a sheet for you where it would list
19 everything to like upload grid coordinates into an ARC map or
20 something, as an example.

21 Q. And when you were exporting large documents, like if you
22 were exporting a month of SIGACTs or something to Excel, did you have

1 to click, open and save every one of the SIGACTs or would the Excel
2 export it for you?

3 A. The Excel would export it for us.

4 Q. So it would do it automatic -- in an automated fashion.

5 A. Yes, sir.

6 Q. Is that correct?

7 A. Yes, sir.

8 Q. Did anyone tell you that that was improper, that you're
9 supposed to go and click, open and save and not use the automated
10 process?

11 A. No.

12 Q. And from your memory, was that permitted?

13 A. Yes, sir.

14 Q. Now, you were a part of the advance party for Bravo Company
15 going to Iraq. Is that right?

16 A. Correct.

17 Q. And if I'm correct, you departed Fort Drum sometime in
18 October of 2009?

19 A. Yes, sir.

20 Q. And then you arrived at FOB Hammer around the 15th of
21 October?

22 A. Yes, sir.

1 Q. And when you arrived, you worked periodically in the SCIF.
2 Is that right?

3 A. Right.

4 Q. You also had to support your company's operations?

5 A. Correct.

6 Q. So initially you did not work full-time in the SCIF?

7 A. That's correct.

8 Q. And when you were in the SCIF, you worked as an
9 Intelligence Analyst?

10 A. Correct.

11 Q. And I believe you said you were on the Shia threat group?

12 A. Yes, sir.

13 Q. And obviously PFC Manning was also on that?

14 A. Yes.

15 Q. And at the start of the deployment you worked the day
16 shift?

17 A. Yes.

18 Q. And PFC Manning worked the night shift?

19 A. Yes, sir.

20 Q. Now, on the night shift PFC Manning had certain tasks that
21 he was, I guess had to complete. Is that correct?

22 A. Correct.

1 Q. And he and the other night shift analysts were tasked to
2 complete and update what I believe was called a commander's read book
3 each night. Is that right?

4 A. Yes, that's correct.

5 Q. And he also had to do a report slide that was due every
6 night?

7 A. Yes.

8 Q. And for the slide PFC Manning and others had to do
9 analysis?

10 A. Correct.

11 Q. And that slide was due every night at midnight?

12 A. Yes, sir.

13 Q. And these were products that he was required to complete?

14 A. That's correct.

15 Q. Now, at any point when you were working in the T-SCIF, did
16 they put out any formal training on the rules and regulations of the
17 SCIF?

18 A. Not that I recall, sir.

19 Q. So when you say again -- when you say not that you recall,
20 meaning they could have and I don't remember it, or I don't believe
21 they ever did that?

22 A. They could have and I don't remember it.

1 Q. From your memory, did you ever see Soldiers listening to
2 music in the SCIF?

3 A. Yes.

4 Q. And where was this music stored?

5 A. It was stored on the T-drive.

6 Q. And that was a classified drive, correct?

7 A. Correct.

8 Q. Did you ever see the Soldiers place that music on their
9 DCGS-A computers?

10 A. I didn't see them place it on the DCGS-A computers, no.

11 Q. Did you ever see the Soldiers listening to the music on the
12 DCGS-A computers?

13 A. Yes, sir.

14 Q. Did you ever see movies in the T-SCIF?

15 A. Yes, sir.

16 Q. And did you ever see Soldiers playing movies in the T-SCIF?

17 A. Yes.

18 Q. Did you ever see games being played in the T-SCIF?

19 A. Yes, sir.

20 Q. Video games? And were these being played on the DCGS-A
21 computer?

22 A. Yes, sir.

1 Q. And from your memory, was anyone ever punished for having
2 games, music or movies in the T-SCIF?

3 A. No.

4 Q. And we talked about the fact that others had had mIRC chat
5 added on to their desktop computer, right?

6 A. Yes.

7 Q. Was anyone ever punished for having mIRC chat put on their
8 desktop?

9 A. No.

10 Q. Did anyone ever say that that was wrong?

11 A. No.

12 CDC[MR. COOMBS]: All right. Thank you.

13 MJ: Redirect?

14 ATC[CPT WHYTE]: Yes, ma'am, just a few questions.

15 **REDIRECT EXAMINATION**

16 **Questions by the assistant trial counsel [CPT WHYTE]:**

17 Q. Mr. Madaras, you said that PFC Manning helped other
18 Soldiers with their DCGS machines?

19 A. Yes.

20 Q. How did he help the other Soldiers?

21 A. From all I can remember was helping with mIRC chat.

22 Q. And why was he asked to help the Soldiers?

1 A. Because we needed mIRC chat so we could talk to other units
2 at other FOBs.

3 Q. So let's talk about mIRC chat. You said you had it on your
4 DCGS machine?

5 A. Yes, sir.

6 Q. Where was it located on your machine?

7 A. Right off the desktop.

8 Q. Okay. And who else had mIRC chat on their computer?

9 A. Everybody did, sir.

10 Q. In the S-2 shop?

11 A. Yes, sir.

12 Q. What about outside of the S-2 shop?

13 A. Anybody that worked in direct relation to us like current
14 ops at other units and their S-2s at other units all had mIRC chat.

15 Q. Can you explain for the Court what mIRC chat looks like
16 when you actually open it up?

17 A. When you open it up there's a bunch of listings on the left
18 side of the screen that has all the different chat groups in it. In
19 the center it's a blank space so when you click to it it opens it up
20 so you can see that group, and at the bottom is where you type in
21 what you want to say.

22 Q. And what type of information was communicated over mIRC
23 chat?

1 A. Mainly SIGACTs that was currently happening before they
2 were even published on the CPOF.

3 Q. So why was this information communicated over mIRC chat?
4 A. Because the sooner we would know about stuff, the more
5 effect we could have on the battle you could say.

6 Q. You said that mIRC chat was stored on the T-drive. Is that
7 correct?

8 A. Yes, sir.

9 Q. Do you know when mIRC chat was put on the T-drive?

10 A. I don't. It was already on there from the previous unit
11 when we got in country.

12 Q. And then the defense asked you about the Excel export
13 issue. Did CIDNE, the program itself, allow you to export SIGACTs?

14 A. Yes, sir, you could then pour them directly into Excel.

15 Q. And also movies, music, games, that was also asked by the
16 defense. Do you know when that information was put on the T-drive?

17 A. That was on the T-drive from the previous unit.

18 ATC[CPT WHYTE]: No further questions, Your Honor.

19 MJ: Go ahead.

20 CDC[MR. COOMBS]: Just one follow-up.

21 [END OF PAGE]

22

1

RECROSS-EXAMINATION

2 **Questions by the civilian defense counsel [MR. COOMBS]:**

3 Q. The DCGS-A computer, did anyone besides Intelligence
4 Analysts have DCGS-A computers?

5 A. I do not know, sir.

6 Q. Were DCGS-A computers, computers that were part of what you
7 did as Intelligence Analysts?

8 A. Yes, sir.

9 Q. Would a person who didn't have a job that dealt with
10 Intelligence Analysts be working off a DCGS-A computer?

11 A. No, sir.

12 CDC[MR. COOMBS]: Thank you.

13 MJ: Any last redirect?

14 ATC[CPT WHYTE]: No, ma'am.

15 MJ: Mr. Madaras, I have a few questions.

16 **EXAMINATION BY THE COURT-MARTIAL**

17 **Questions by the military judge:**

18 Q. The DCGS-A computers that were down range, you testified
19 earlier there's a T-drive and that T-drive stored mIRC chat.

20 A. Yes, ma'am.

21 Q. So the T-drive was accessible to all users, but were your
22 individual user drives or your user profiles accessible to your
23 colleagues?

1 A. If we saved them on to the T-drive they were, ma'am.

2 Q. So did you -- You said -- you testified PFC Manning helped

3 you install mIRC chat on your desktop. Was that as a shortcut from

4 the T-drive?

5 A. That would be as a shortcut, ma'am, yes, from my

6 understanding.

7 Q. Was there a separate mIRC chat on your user profile as

8 well?

9 A. I do not know.

10 Q. When you used mIRC chat, where did you use it from?

11 A. Right off my desktop.

12 Q. You testified earlier that music, books and games were

13 already on the T-drive from the previous unit. Did any of the

14 members of the SCIF, are you aware, did anybody put new movies, games

15 or videos on the T-drive?

16 A. Not that I know of, no.

17 Q. Do you know if there was any authorization or prohibition

18 from -- any authorizing to do that -- authorization to do that or

19 prohibition against doing that?

20 A. No, ma'am, I do not know.

21 Q. So there was basically silence on the issue?

22 A. Correct.

23 Q. Who supervised you?

1 A. Kyle Balonek did.

2 Q. Would Mr. Balonek have been aware if someone was watching -
3 - of people watching these movies and playing these games from the T
4 drive.

5 A. Yes, I would believe so.

6 Q. When you testified earlier that Mr. Milliman I believe his
7 name was would come and help you fix the computer problems that you
8 had when you had them?

9 A. Yes.

10 Q. Did -- And he would re-image them to do that. Is that what
11 you said?

12 A. Yes, that's correct.

13 Q. When someone re-images a computer, what happens to the data
14 that you have?

15 A. Wipes -- From my understanding it gets rid of everything
16 like starting fresh.

17 Q. So, if you needed -- Were you ever in a situation where you
18 needed data from your computer before it was re-imaged?

19 A. Yes.

20 Q. What did you do with that data?

21 A. We'd save it to a CD.

22 Q. And what would you do with the CD?

1 A. It would go into the computer again once he was done re-
2 imaging it and re-save all the files to the computer that were
3 needed, ma'am.

4 Q. Now, when the computer is re-imaged, does it strip data
5 from the T-drive, too?

6 A. No. The T-drive was a completely separate function.

7 Q. So the re-imaging would just be for your user profile?

8 A. Just for the computer, anything that was saved on that
9 computer's hard drive.

10 Q. So the T-drive is a shared drive located somewhere else?

11 A. Correct.

12 Q. If the computers would go down frequently, why would you
13 not save everything on the T-drive?

14 A. We usually tried to save most everything that we were
15 working on on the T-drive, ma'am.

16 Q. You testified earlier that you didn't do any searches of
17 Europe and Iceland and all of the other areas that you talked about
18 because it wasn't in your particular area of operations. What's your
19 understanding of, say you had down time, instead of watching a movie,
20 you wanted to see what was going on in the world, for example. What
21 is your understanding of what the policy, if any, was with respect to
22 you searching things that didn't have anything to do with your AO?

23 A. I don't believe there was any stipulation against doing so.

1 MJ: Any questions based on mine?

2 CDC[MR. COOMBS]: No, Your Honor.

3 TC[MAJ FEIN]: No, Your Honor.

4 MJ: All right. Anything else for this witness?

5 ATC[CPT WHYTE]: No, ma'am.

6 MJ: All right.

7 [The witness was temporarily excused, duly warned, and withdrew from
8 the courtroom.]

9 MJ: All right. Counsel, I'm looking at the time, I'm also
10 looking at a stack of stipulations of expected testimony that I have
11 here. Would this be a good time to go through the stipulations of
12 expected testimony with PFC Manning and then break for a lunch, or
13 would you rather break for lunch and then go through it afterwards?

14 TC[MAJ FEIN]: Ma'am, the United States recommends that we break
15 for lunch, for a 2-hour lunch recess because we have more
16 stipulations and then we can put them all together and do them at one
17 time after lunch.

18 MJ: Any objection to that?

19 CDC[MR. COOMBS]: No, Your Honor.

20 MJ: Anything else we need to address before we go into a 2-hour
21 recess?

22 TC[MAJ FEIN]: No, ma'am.

23 CDC[MR. COOMBS]: No, ma'am.

1 MJ: All right. Court will reconvene then at 1400 or 2 o'clock.
2 Court is in recess.

3 [The court-martial recessed at 1211, 10 June 2013.]

4 [The court-martial was called to order at 1524, 10 June 2013.]

5 MJ: Court is called to order. Major Fein?

6 TC[MAJ FEIN]: Yes, ma'am. All parties when the Court last
7 recessed are again present, Your Honor, with the following exception
8 Captain Whyte is absent and Captain Overgaard is present.

9 MJ: All right. During the lunch recess that went a little bit
10 longer, or a lot longer than we had planned. The parties have
11 presented me with some stipulations of expected testimony that both
12 sides have agreed to and that PFC Manning has agreed to. I count a
13 total of 19. Do both sides?

14 TC[MAJ FEIN]: Yes, ma'am.

15 ADC[MAJ HURLEY]: Yes, ma'am.

16 TC[MAJ FEIN]: And, ma'am, that's 19, one classified, and then
17 there's an unclassified redacted version as well, but it's the same.

18 MJ: Major Hurley, I need to go over these stipulations with PFC
19 Manning. Does he have them in order of appellate exhibit number?

20 ADC[MAJ HURLEY]: Ma'am, he has them in order of prosecution
21 exhibits numbers.

22 MJ: I'm sorry, prosecution exhibit number. Excuse me.

1 ADC[MAJ HURLEY] Yes, ma'am. May we wait a second just to
2 make sure that's right.

3 MJ: Yeah. I will do it any order you would like. I can do it
4 alphabetically, I can do it by appellate exhibit [sic] or whatever
5 makes sense to you will make sense to me.

6 ADC[MAJ HURLEY]: Ma'am, I apologize. What we've done is
7 we've set them up in order of the witness testimony according to the
8 witness list proposed by the government. So that's the order that
9 they're currently in now.

10 MJ: Will it be faster for you all to just take my copies and
11 match them to his order?

12 ADC[MAJ HURLEY]: Ma'am, I think it will be faster if we took
13 our copies and matched them to the prosecution ID numbers.

14 MJ: All right.

15 **[There was a brief pause while the defense counsel and accused**
16 **reviewed the prosecution exhibits.]**

17 ADC[MAJ HURLEY]: Ma'am, we did our best.

18 MJ: Thank you. PFC Manning, the one question I do want to ask
19 you before we begin our colloquy, is there's 19 of these stipulations
20 of expected testimony and as I hold them in my hand they can be the
21 size basically of a small paperclip that could hold them together.
22 Have you had an opportunity to read each one of these 19
23 stipulations, and do you feel like you have had enough time to go

1 through all of these that you are comfortable having that colloquy
2 now?

3 ACC: Yes, ma'am, definitely.

4 MJ: I know some are dated 7 June and some are dated 9 and 10
5 June, and I just noticed here on my copy at least of the redacted
6 classified version doesn't have a date. My copy of June, is that for
7 a reason?

8 TC[MAJ FEIN]: No, ma'am, the original classified version is
9 dated 10 June.

10 MJ: Okay. So the redacted version will be 10 June too?

11 ADC[MAJ HURLEY]: Yes, ma'am.

12 MJ: Now that we're looking at that one, I also was advised by
13 the parties who came into my office briefly for an R.C.M. 802
14 conference that lasted about 2 minutes, that a couple of these
15 stipulations, and this is -- let's look at the one for Lieutenant
16 Commander Hoskins, the redacted copy of 111B, on Page 2. If you look
17 in Paragraph 8. It has Prosecution Exhibit and then it's handwritten
18 87 for Identification. The parties advised me in the 802 conference,
19 normally when you have stipulations of expected testimony and you
20 made handwritten notes or changes on it, PFC Manning, you would
21 initial it, and the government would initial it; but this looks like
22 it was just added as part of the original stipulation. Is that the
23 understanding of the parties?

1 ADC[MAJ HURLEY]: Yes, ma'am, we received them from the
2 government, they had already handwritten in the prosecution exhibit
3 the time we reviewed it and signed it.

4 MJ: That is correct.

5 TC[MAJ FEIN]: Yes, ma'am.

6 MJ: And PFC Manning Do you agree?

7 ACC: Yes, ma'am.

8 MJ: All right. So basically you had the stipulations, you just
9 didn't know what the appellate exhibit [sic] number, or the ones we
10 were referring to were at that particular time.

11 ADC[MAJ HURLEY]: Yes, ma'am. As we were going back and forth
12 on content and then once we got down to the specifics that's when it
13 was actually filled in prior to signature.

14 MJ: Okay. Does either side see a necessity to go through and
15 initial these?

16 ADC[MAJ HURLEY]: The defense does not, ma'am.

17 TC[MAJ FEIN]: No, ma'am, not for all my people.

18 MJ: All right. Let's -- Again, let's just go through them one-
19 by-one to make sure we're both talking about the same thing. I have
20 Prosecution Exhibit 70 for Identification, which is stipulation of
21 expected testimony from Mr. Peter Artale. Is it Artail or Artale?

22 TC[MAJ FEIN]: Artale, ma'am.

23 MJ: Artale. And PFC Manning do you have that one?

1 ACC: Yes, ma'am.

2 MJ: And the second one I have is a Mr. Sean Chamberlin. Do you
3 have that one as Prosecution Exhibit 71.

4 ACC: Yes, Your Honor.

5 MJ: The next one I have is a stipulation of expected testimony
6 of Special Agent John Wilbur, which is Prosecution Exhibit 72 for
7 Identification.

8 ACC: Yes, Your Honor.

9 MJ: All right. The next one is James Fung, Prosecution Exhibit
10 73 for Identification.

11 ACC: Yes, Your Honor.

12 MJ: All right. The next one is Alex Withers, Prosecution
13 Exhibit 74 for Identification.

14 ACC: Yes, ma'am.

15 MJ: All right. Mr. James McManus, 7 June 2013, Prosecution
16 Exhibit 75 for Identification.

17 ACC: Yes, Your Honor.

18 MJ: The next one is Special Agent Troy Bettencourt, Prosecution
19 Exhibit 76 for Identification.

20 ACC: Yes, ma'am.

21 MJ: All right. The next one is Special Agent Kirk Ellis
22 Prosecution Exhibit 77 for Identification.

23 ACC: Yes, ma'am.

1 MJ: All right. The next one is Special Agent Mark Mander,
2 Prosecution Exhibit 78 for Identification.

3 ACC: Yes, ma'am.

4 MJ: Next is one is Mr. Doug Schasteen, Prosecution Exhibit 80
5 for Identification.

6 ACC: Yes, ma'am.

7 MJ: The next one I have is Prosecution Exhibit 106 for
8 Identification, Mr. Jacob Grant.

9 ACC: Yes, Your Honor.

10 MJ: All right. The next one Ms. Florinda White Prosecution
11 Exhibit 107 for Identification.

12 ACC: Yes, Your Honor.

13 MJ: All right. The next one is Lieutenant Commander Thomas
14 Hoskins, U.S. Navy Reserve, Prosecution Exhibit 111B, Bravo.

15 ACC: Yes, Your Honor.

16 MJ: Next one is Lieutenant Colonel retired Martin Nehring,
17 Prosecution Exhibit 112 for Identification.

18 ACC: Yes, ma'am.

19 MJ: Next one is Debra van Alstyne, Prosecution Exhibit 113 for
20 Identification.

21 ACC: Yes, Your Honor.

22 MJ: Next one is Mr. Wyatt Bora, Prosecution Exhibit 115 for
23 Identification.

1 ACC: Yes, Your Honor.

2 MJ: Next one I have is Mr. Patrick Hoeffel. Is that how you
3 pronounce his name?

4 TC[MAJ FEIN]: Yes, ma'am.

5 MJ: And that would be Prosecution Exhibit 116 for
6 Identification.

7 ACC: Yes, Your Honor.

8 MJ: All right. And then I have CW5 Jon LaRue, Prosecution
9 Exhibit 117 for Identification.

10 ACC: Yes, Your Honor.

11 MJ: And then I have Ms. Jacqueline Scott, she should have come
12 before LaRue, but Ms. Jacqueline Scott which is Prosecution Exhibit
13 116 for Identification.

14 ACC: I have 119.

15 MJ: Oh, okay. It looked like a 6 to me. Again, 119 for
16 Identification. Is that right?

17 TC[MAJ FEIN]: Yes, ma'am.

18 MJ: Okay. Do you have any other stipulations of expected
19 testimony before you that I haven't referenced?

20 ACC: No, ma'am.

21 MJ: And once again, before signing each of these stipulations -
22 - first of all, are the signatures on the back of each of these
23 stipulations.

1 ACC: Yes, ma'am, except for the redacted one.

2 MJ: Okay. Is your signature on the back of the original?

3 ACC: Yes.

4 MJ: And that would be for the record Prosecution Exhibit 111

5 Bravo, Lieutenant Commander Thomas Hoskins.

6 ADC[MAJ HURLEY]: Yes, ma'am. Bravo is what we have redacted

7 and Alpha is the original.

8 MJ: All right.

9 TC[MAJ FEIN]: And, ma'am, we do have Alpha for you if you'd

10 like to look at it right now.

11 MJ: Let me just -- before we begin, let me look at that one.

12 Has PFC Manning, has he had an opportunity to look at 111 Alpha?

13 ADC[MAJ HURLEY]: Yes, ma'am, he has.

14 MJ: All right. Why don't you give it to me just so I can see

15 it.

16 TC[MAJ FEIN]: May I approach, Your Honor?

17 MJ: Yes. I'm looking at a copy of what's been marked as

18 Prosecution Exhibit 111 Alpha. It looks like there are redactions,

19 PFC Manning, at the top and bottom of each page, but the substantive

20 redaction that I want to talk about with you is Paragraph 16,

21 redacted in the redacted copy. Have you had an opportunity to review

22 the Paragraph 16 in the original exhibit?

23 ACC: Yes, Your Honor.

1 MJ: You've had the opportunity to thoroughly read that?

2 ACC: Yes, that's correct.

3 MJ: You can take that back. PFC Manning, with each of these

4 19 stipulations before you signed them, did you read them thoroughly?

5 ACC: Yes.

6 MJ: Do you understand the contents of the stipulations.

7 ACC: Yes, ma'am.

8 MJ: Do you agree with the contents of the stipulations.

9 ACC: Yes, Your Honor.

10 MJ: All right. Now, before signing the stipulations, did your

11 defense counsel explain the stipulations to you?

12 ACC: Yes, Your Honor.

13 MJ: Do you understand you have an absolute right to refuse to

14 stipulate to the contents of the documents?

15 ACC: Yes, Your Honor.

16 MJ: And that you should stipulate to them only if you believe

17 it's in your best interest to do that.

18 ACC: Yes, Your Honor.

19 MJ: Once again, all of these are stipulations of expected

20 testimony, which means that if counsel from both sides and you agree

21 to stipulations of expected testimony, you're agreeing that each of

22 these 19 witnesses if they were sitting here in the witness stand

23 today they would testify substantially as what's in the stipulation

1 of expected testimony that's geared to them and if they were under
2 oath that's exactly how they would testify? You're not agreeing to
3 the truth of what they're saying. Their stipulation and their
4 testimony can be -- Their stipulations can be attacked the same way
5 that if the person was testifying here live. They can be
6 contradicted and they can be explained in the same way as if they
7 were here testifying here in live and in court today. Do you
8 understand that?

9 ACC: Yes, Your Honor.

10 MJ: And knowing what I've told you earlier and what your
11 defense counsel has told you and what I've told you today, do you
12 still desire to enter into these stipulations?

13 ACC: Yes, Your Honor.

14 MJ: Do counsel concur with the contents of each of these 19
15 stipulations?

16 ADC[MAJ HURLEY]: Yes, ma'am.

17 TC[MAJ FEIN]: Yes, ma'am.

18 MJ: All right. Shall I admit them as evidence now or as we go
19 through?

20 TC[MAJ FEIN]: Ma'am, we can admit now and then we will read
21 them as we go through.

22 MJ: All right. Why don't you hand them to me? Would it help
23 to have my copies?

1 ADC[MAJ HURLEY]: Yes, ma'am.

2 MJ: Thank you. All right. Prosecution Exhibit 70 for
3 Identification a stipulation of expected testimony of Mr. Peter
4 Artale is admitted. Prosecution Exhibit 71 for Identification the
5 stipulation of expected testimony of Mr. Sean Chamberlin is admitted.
6 Prosecution Exhibit 72, Special Agent John Wilbur, for Identification
7 is admitted.

8 I'm not going say stipulation of expected testimony with
9 each of these. I'll just say the name. Prosecution Exhibit 73 for
10 Identification, Mr. John -- James Fung is admitted. Prosecution
11 Exhibit 74, Mr. Alex Withers, is admitted. Prosecution Exhibit 75,
12 Mr. James McManus, is admitted. Prosecution Exhibit 76, Special
13 Agent Troy Bettencourt, is admitted. Prosecution Exhibit 77, Special
14 Agent Kirk Ellis, is admitted. Prosecution Exhibit 78, Special Agent
15 Mark Mander, is admitted. Prosecution Exhibit 79, Mr. Doug
16 Schasteen, is admitted. Wait a minute.

17 CDC[MR. COOMBS]: Ma'am, that's Prosecution Exhibit 80.

18 MJ: That is Prosecution Exhibit 80. Why do I have 79 here? 79
19 I should not have. Prosecution Exhibit 79 is not admitted. Mr.
20 Doug Schasteen, Prosecution Exhibit 80 for Identification is
21 admitted. Prosecution Exhibit 106, Mr. Jacob Grant, is admitted.
22 Prosecution Exhibit 107, Ms. Florinda White, is admitted.
23 Prosecution Exhibits 111 Alpha, which is the classified version,

1 which I can initial later or on a recess, and Prosecution Exhibit 111
2 B for Identification are admitted. Prosecution Exhibit 112,
3 Lieutenant Colonel retired Martin Nehring, is admitted. Prosecution
4 Exhibit 113, Ms. Debra van Alstyne, is admitted. Prosecution Exhibit
5 115, Mr. Wyatt Bora, is admitted. Prosecution Exhibit 116, Mr.
6 Patrick Hoeffel, is admitted. Prosecution Exhibit 117, CW5 John
7 LaRue, is admitted. And Prosecution Exhibit 119, Ms. Jacqueline
8 Scott, is admitted.

9 Let the record reflect I'm handing all of those exhibits
10 back to the court reporter. Is there anything that we need to
11 address before we proceed?

12 TC[MAJ FEIN]: No, Your Honor.

13 ADC[MAJ HURLEY]: No, ma'am.

14 MJ: Government, call your next witness.

15 ATC[CPT MORROW]: United States calls Special Agent Mark
16 Mander.

17 **SPECIAL AGENT MARK MANDER, U.S. ARMY, was called as a witness for the**
18 **prosecution, was sworn, and testified as follows:**

19 **DIRECT EXAMINATION**

20 **Questions by the assistant trial counsel [CPT MORROW]:**

21 Q. You are Special Agent Mark Mander?

22 A. Yes.

23 Q. At the Computer Crimes Investigate Unit, Army CID?

1 A. Yes.

2 Q. Agent Mander, how long have you been a CID Agent?

3 A. I've been an agent approximately 11 years.

4 Q. And you are a civilian agent at this time?

5 A. Yes, I'm a civilian agent currently.

6 Q. And describe your career in CID essentially?

7 A. Beginning in 1994 I became a CID agent as military or an

8 active duty CID agent, was a military agent for about 4 years, went

9 to the Reserves for 3 years. I then took a break from both reserves

10 or any military service until joining the Reserves again in 2007, and

11 then in 2008 I became a civilian agent and was also a reserve agent

12 at the same time.

13 Q. When did you joint CCIU specifically?

14 A. I was hired as a civilian agent in CCIU in February of

15 2008.

16 Q. And what training did you receive to become a CID agent?

17 A. Beginning in 1994, I went to basically the CID School where

18 they teach various aspects of being an agent.

19 Q. And what training have you received related to computer

20 crimes as part of your CCIU job?

21 A. Basically all the agents at CCIU go through various

22 training courses at the Defense Cyber Investigations Training

23 Academy, or DCITA. I've attended approximately, well over 400 hours

1 of courses there. The courses range from identifying various
2 computer parts and software, doing analysis of computers imagining or
3 obtain forensic images of computers, things of that nature.

4 Q. What is CCIU's area of expertise in the CID world?

5 A. CCIU is Army CID's investigative element that is
6 specifically focused on conducting investigations involving computer
7 intrusions and computer crimes.

8 Q. And what do you mean by an intrusion?

9 A. Essentially there are many instances or incidents where
10 Army or DoD computer networks are intruded upon where someone will
11 remotely try to get access or does gain access and obviously that is
12 a crime that we investigate.

13 Q. And do you hold any certifications in computer-related
14 fields?

15 A. Currently I hold a Department of Defense Certified Computer
16 Crime Investigator Certification.

17 Q. And approximately how many cases have you investigated as a
18 CCIU agent?

19 A. Probably in excess of 20.

20 Q. And what about total in your time at CID, how many cases
21 have you investigated?

22 A. Probably in excess of 200 cases where either I was the
23 primary agent or I was helping another agent on their case.

1 Q. Agent Mander, I'd like to discuss the investigation of PFC
2 Manning and WikiLeaks. What has been -- or what was and has been
3 your role been in the investigation to date?

4 A. When the investigation first started essentially I was a
5 case agent in the investigation which means I would do various case
6 related investigative duties.

7 Q. And how did this investigation compare to other
8 investigations you've been a part of at CCIU?

9 A. For CCIU as well as all of the other investigations that
10 I've participated as a CID agent. This was probably one of the
11 largest and most complicated investigations we've ever had.

12 Q. As a case agent, what were you doing day-to-day?

13 A. My duties involved reviewing various documents, either
14 classified documents or open-source documents, interviewing personnel
15 that had, you know, some relationship or bearing on the
16 investigation, writing reports, collecting evidence, coordinating
17 with various other agencies and other personnel to forward the case.

18 Q. And what initially brought PFC Manning to law enforcement's
19 attention?

20 A. Initially in, well towards the end of May of 2010, our
21 office received an e-mail that suggested a Soldier in Iraq had or was
22 or would be wrongfully disclosing classified information.

1 Q. And what organization was initially responsible for the
2 investigation?

3 A. Initially it was Army CID was involved. It wasn't the CCIU
4 initially. The case was opened by a CID office in Iraq that was
5 assigned the case.

6 Q. And when did the case get transferred to CCIU?

7 A. I'm going to say probably the second week of June, I
8 believe it was maybe the 9th or 10th of June or somewhere
9 thereabouts.

10 Q. Aside from the computer nexus, why was the case transferred
11 to CCIU and your office specifically in the United States?

12 A. Well, there were several reasons aside from kind of
13 computer aspects even when the investigation was with the office in
14 Iraq. It was pretty much understood that CCIU would conduct the
15 computer forensics related to the case, but as the case developed we
16 started to understand that there was going to be most likely a lot of
17 commercial providers and/or other places within the United States
18 that we would have to get evidence from such as log files and things
19 of that nature. Typically in a case where we have to deal with
20 commercial providers like say Google or Microsoft typically to compel
21 them to provide evidence to us, we will get a federal magistrate
22 search warrant, and a federal magistrate was something that was not

1 available in Iraq. They don't have a federal magistrate over there.

2 So that was another reason that the case was transferred to us.

3 Q. Now, does the CC -- Does the CCIU agents work with the
4 assistant U.S. attorneys and federal magistrates often?

5 A. Yes, very often, because ----

6 ADC[CPT TOOMAN]: Objection, Your Honor. Relevance.

7 MJ: Overruled. Go ahead.

8 A. Yes we work with assistant U.S. attorneys and federal
9 magistrates very often. Generally because when a computer intrusion
10 incident occurs a lot of times it's not apparent what the source of
11 that intrusion is and, therefore -- it's not always a Soldier,
12 therefore, we wouldn't always deal with a SJA or a trial counsel
13 initially.

14 Q. Now were there -- Other than sort of the need to interact
15 with the commercial providers in order to obtain search
16 authorizations, any other reasons why the case was better suited for
17 or why the case was transferred to CCIU in the United States?

18 A. We discussed the obviously computer aspect of it. The fact
19 that there would be federal magistrates most likely involved to
20 compel the, you know, commercial providers. There was also, you
21 know, maybe not so obviously, but personnel within the United States
22 that knew Manning. As well as we also developed there was
23 indications that there was persons that he had met with or had been

1 in contact with in the Boston area during, well, before his time in
2 Iraq as well as during the time he was on leave.

3 Q. And how did the evidence get from Iraq to the United States
4 that was initially collected?

5 A. There was -- Initial evidence was collected in Iraq that
6 basically the agents there had collected and that evidence was
7 brought from Iraq via one of the these agents who was going on leave
8 who hand carried the evidence with him from Iraq to the Washington,
9 D.C. area. I met him in the airport.

10 Q. You met him at the airport?

11 A. I did.

12 Q. And what was that ----

13 MJ: What airport?

14 Q. What airport was that?

15 A. It was Dulles International Airport.

16 Q. And when approximately was that?

17 A. I would have to look at the evidence documents. I mean, it
18 would probably sometime in the second week of June. Right about
19 there I believe.

20 Q. And once you met that agent at Dulles what did you do next?

21 A. We basically inventoried the items that he had hand carried
22 per the evidence vouchers that he also had and then I signed for the
23 items and then I hand carried them to our evidence room at CCIU.

1 Q. And once the evidence was in the United States how did the
2 investigation progress from there?

3 A. Initially we looked at various pieces of evidence. The
4 forensic team of CCIU began examining the evidence that had been
5 received as well as evidence that had been collected in other places.
6 And based on the examination of that evidence, the forensic team
7 would then alert us, the investigative team to leads or investigative
8 matters that needed to be followed up.

9 Q. And at this point when the evidence was transferred, was
10 the case very well developed?

11 A. No, the case was just developing essentially.

12 Q. And what were you -- what were the case agents using to
13 sort of track down leads? What was being revealed by the
14 examinations by the forensic examiners?

15 A. Well, for example, on some of the digital media that was
16 collected in Iraq that I believe there were chat logs between PFC
17 Manning and Mr. Lamo that were -- or correspond to chat logs between
18 Mr. Lamo and PFC Manning from digital media that was collected from
19 Mr. Lamo. So looking at those chat logs as well as other information
20 that was contained on the digital media that being examined such as
21 there was email PFC Manning I believe it was on his personal
22 computer. Those items of information that were, you know, in those

1 digital media items created investigative leads to identify certain
2 people to interview them.

3 Q. And what did the chat logs reveal regarding sort of the
4 scope of the alleged transmissions or compromising information?

5 ADC[CPT TOOMAN]: Objection, Your Honor. This is cumulative.
6 We've already gone over the chat logs.

7 ATC[CPT MORROW]: I'm asking a very general question, Your
8 Honor, to -- for him to provide context to his testimony.

9 MJ: Are you going to go down the same road you went before?

10 ATC[CPT MORROW]: Absolutely not.

11 MJ: All right. Go ahead. Overruled.

12 A. Can you repeat the question, sir?

13 Q. What was revealed in the chat logs that provided sort of
14 context to the compromise or the alleged compromises of information?

15 A. I'm not following, sir.

16 MJ: Neither am I.

17 Q. Who was the recipient of information allegedly comprised by
18 PFC Manning?

19 A. According to the chat logs and other information it
20 appeared that the organization WikiLeaks was the recipient of
21 information.

22 Q. And what is WikiLeaks?

1 A. WikiLeaks, to my knowledge, is a organization which its
2 mission is to obtain and publicly display or publish documents from
3 governments and other private organizations.

4 Q. And when did the WikiLeaks organization become widely
5 known?

6 A. It was probably widely known following the disclosure of a
7 video involving U.S. Army helicopter involved in combat operation.

8 Q. And what was released during that -- what was the release
9 essentially can you describe what was released by WikiLeaks?

10 A. I believe it was on April 5th of 2010, WikiLeaks or members
11 of WikiLeaks held a press conference type of event where they
12 displayed and/or published an edited version of a video taken from an
13 Army helicopter involved in a combat operations.

14 Q. What do you mean by an, edited video?

15 A. To my knowledge the video was edited from the original
16 video.

17 ADC [CPT TOOMAN]: Objection, Your Honor. This witness has no
18 personal knowledge of any editing that would have been done on the
19 video.

20 MJ: Hold on. Does he?

21 Q. Agent Mander, are you familiar with the video, the Apache
22 video? Have you seen the Apache video in its full form as part of
23 this investigation?

1 A. I don't remember having seen the original video, but I know
2 from looking at the version that was released by WikiLeaks, that it
3 had been edited because there was certain information that wouldn't
4 have been contained in the original such as names of some of the
5 personnel that were casualties in the video.

6 Q. And you said the WikiLeaks organization, is it a website
7 you said it publishes information? What's the -- How does it publish
8 information?

9 A. The WikiLeaks organization has a website. The domain name
10 is WikiLeaks.org, or O-R-G, and they also have several other we call
11 them mirror websites that contain generally the same content as the
12 main site.

13 Q. What do you mean by a, mirror website?

14 A. When I say mirror I mean that there were additional
15 websites using other domain names that appear to have been hosted
16 physically in other countries or other jurisdictions I guess you
17 could say that would contain the same content as the main site and
18 presumably with the intent so that if the main site was ever taken
19 down by some type of government order or ----

20 ADC [CPT TOOMAN]: Objection, Your Honor, this witness would
21 have no knowledge of why it would be on multiple sites.

22 MJ: I'm going to sustain that unless there is a foundation.

1 Q. To your knowledge, Agent Mander, is the WikiLeaks.ORG
2 website still active?

3 A. It's still active.

4 Q. And who can access the website?

5 A. Any member of the general public.

6 Q. Who is the public face or leader of WikiLeaks?

7 A. There is a Mr. Julian Assange is kind of the self-described
8 leader or editor of WikiLeaks.

9 Q. Agent Mander, I want to talk about the structure of the
10 investigation when it came back to the United States. Outside of
11 CCIU, what other investigative organizations were involved in the
12 investigation of PFC Manning?

13 A. Initially the Department of State Diplomatic Security
14 Service or DSS, was involved in investigating the compromise and/or
15 unlawful disclosure of a, I believe it was a diplomatic cable related
16 to information involving Iceland, and that had occurred several
17 months before CID was involved in the investigation.

18 Q. And other than the DSS what other organizations were
19 involved?

20 A. Initially when we received information from or should I say
21 that information was developed about a Soldier in Iraq possibly
22 unlawfully disclosing classified information Army military
23 intelligence was also involved because initially there was a concern

1 that possibly foreign intelligence service could be involved as well
2 as the State Department and Army Military Intelligence.

3 Q. Any federal law enforcement authorities?

4 A. Later, probably in June, late June or maybe July the FBI
5 also became involved.

6 Q. What was the status of the investigation or did the various
7 investigative organizations, were they working together?

8 A. Yes, they -- we consider it what we call a joint
9 investigation and what that means is that the investigative agencies
10 each determine that they will work together and typically they will
11 define kind of investigative leads specific to that agency's interest
12 that they will pursue.

13 Q. And what was CCIU's lane essentially?

14 A. CCIU was to investigate all Army and/or DoD related
15 investigative leads.

16 Q. And what was the FBI's lane?

17 A. The FBI they would be investigating any civilian leads that
18 didn't really have like a Department of Defense or Army nexus.

19 Q. Generally did the investigative organizations share
20 information?

21 A. Yes.

1 Q. And what about investigative activities, did the various
2 organizations stay in their lane or did they -- did you all do,
3 conduct investigative activities together?

4 A. Yes. There's numerous instances such as various interviews
5 that were done jointly. So, for example, there was at least one
6 interview that I conducted where there was CID, Army Military
7 Intelligence as well as the DSS agents participated in the interview.

8 Q. And as part of this investigation approximately how many
9 individuals have you interviewed?

10 A. I would have to go back and look at the case file, but I
11 would say probably at least 25 or more.

12 Q. And are you familiar with agent's investigative reports?

13 A. I'm familiar, yes.

14 Q. And approximately how many reports have you filed as part
15 of this investigation?

16 A. Again, I'd have to review the case file, but I would say
17 probably, probably in excess of at least 50.

18 Q. I want to talk about some other investigative activity that
19 CCIU conducted in relation to this case. As part of the
20 investigation, did CCIU preserve or collect information on the --
21 that was posted on the WikiLeaks website?

22 A. At various points I believe there was agents that were
23 assigned to download information that was published on the WikiLeaks

1 website because it contained classified information and was otherwise
2 evidence.

3 Q. And what would be the benefit of collecting information
4 from there? How would that -- How was that information used?

5 A. The information that was collected from the WikiLeaks
6 website would be used for comparison purposes to information that may
7 be found on digital media that was collected in the case from various
8 places, from various sources.

9 Q. Now, is that a typical ----

10 MJ: Yes.

11 ADC [CPT TOOMAN]: We will object to this line of questioning
12 the witness said that other agents are the ones that downloaded. So
13 the witness has no personal knowledge.

14 ATC[CPT MORROW]: Your Honor, I think I've established he has
15 personal knowledge of the entire investigation.

16 MJ: Overruled.

17 Q. Is that a typical investigative activity for CCIU?

18 A. What?

19 Q. Collecting -- Preserving and collecting information from
20 websites.

21 A. In some cases, yes.

22 Q. Now, based on your knowledge and experience, are there ways
23 to observe a website as it appeared on a certain date?

1 A. There are certain tools that would allow you to see what a
2 website looked like previously.

3 Q. And what are some of those tools?

4 A. One tool that we will occasionally use, it's a website that
5 uses the domain name archive.org and it also has a nickname. They
6 call it the wayback machine.

7 Q. And are there any other ways that you might observe a
8 website as it appeared at a certain date prior?

9 A. I know that Google is also a potential source. Google as
10 it looks at websites to catalog them for search results that
11 sometimes saves a, what we call, a cached version of that website.

12 Q. Can you explain how an agent or how would you use Google
13 cache to see how a website might have appeared on a certain day?

14 A. Well, for example, somewhat recently I was searching for
15 particular terms to see if I could find something and sometimes
16 especially DoD computer networks we may be blocked from going to
17 certain websites because of either the nature of the website or
18 sometimes make a key word such as something involving something
19 sexual will be automatically blocked through, you know, Internet
20 filtering. So to get around this issue sometimes you can look at the
21 Google cached version and get an idea of what the website that you're
22 looking for looks like.

1 Q. How would you access the Google cache version versus the
2 website that's being blocked? How does it appear to you on the
3 screen when you are accessing the Google cached version?

4 A. Generally speaking you would put your search terms into the
5 Google website would you hit search and you would then receive
6 results, and then typically there is -- it depends on what time or
7 era we're talking about, but right now presently there's like a
8 little arrow next to the one of search results and then you can
9 choose to see the cache version versus the actual version.

10 Q. And the cache version, does it indicate that date that the
11 website was saved or downloaded or?

12 A. Typically when you view the cached version at the top
13 portion of the version that you'll see it will say something to the
14 effect of, this is Google's version of this website on whatever date
15 and time, and it also will give you a caveat that the website may
16 have changed since then.

17 Q. And you mentioned the Internet archive or archive.org. Can
18 you explain how you might use that tool to observe a website in the
19 past?

20 A. That tool is little more comprehensive and it's ----

21 Q. First let's -- Well, let's start with this then. What is
22 the Internet archive or what is archive.org?

1 A. Archive.org is a website that was established. It seems to
2 be funded by some type of nonprofit organization that their goal is
3 to catalog websites on the Internet, amongst other things. So what
4 their website does is it appears to periodically go out and download
5 the content of websites and then it saves them for retrieval by the
6 general public that want to use or see what a particular site looked
7 like in the past.

8 Q. Now, in your experience as an agent, have you used the
9 Internet archive or archive.org to see how a website might have
10 looked in the past?

11 A. Yes. There's been occasions where a website involved on an
12 investigation may have been taken down at the time that we want to
13 look at it and thereafter we would like to see when it previously
14 looked like and, therefore, we might use that tool as a way to see
15 what a website looked like in the past.

16 Q. Okay. So take me through how you might use the Internet
17 archive or archive.org. Just describe from the beginning and we'll
18 try to go through is this slowly.

19 A. Okay. Assuming that you have a web browser and computer
20 connected to the Internet, you would open up the web browser window,
21 you would navigate to the archive.org website. On that website there
22 is a place we can enter in text of what you want to see. So you
23 would presumably put in the address or uniform resource locator code

1 for the websites that you're interested in. You would then hit a
2 search button at which point if the website has been archived or
3 catalogued within archive.org you would be shown something that
4 resembles like a calendar and that calendar will have little circles
5 for days that a capture of the website that you've typed in has been
6 archived at which point you can then click on the little circles and
7 see that version of that website that has been archived.

8 Q. And it's -- That version of that website it's linked to a
9 date?

10 A. Yes. There will be like a date and time sometimes some
11 websites are catalogued archived more than once per day.

12 Q. Now, once you've clicked on that date, what happens?

13 A. Typically the website for the day and/or time that you've
14 clicked on will then display and you will see, generally speaking,
15 what that website looked like on that day and time.

16 Q. Now, if you printed that web page from the Internet
17 archive, what would happen?

18 A. If you printed that page you would get a printout of
19 generally what was on the screen, and depending on the browser
20 settings the, most browsers have the ability to, you can include the
21 thing you've printed, the address of the website as well as the date
22 and time and maybe, say, like the number of pages and/or the title of
23 the website.

1 ATC[CPT MORROW]: I'm retrieving what's been marked as
2 Prosecution Exhibit 109 for Identification.

3 MJ: Proceed.

4 ATC[CPT MORROW]: I'm handing the witness ----

5 ADC[CPT TOOMAN]: Your Honor, the defense requests the
6 opportunity to voir dire this witness about his knowledge of the
7 Wayback machine or archive.org, and how it functions.

8 MJ: With the goal of preventing admissibility of this exhibit?

9 CDC[MR. COOMBS]: Yes, Your Honor, voir dire and aid of the
10 objection. So, we would object to foundation, personal knowledge of
11 this witness and we'd like to voir dire in aid of that objection.

12 MJ: Let me see the exhibit. Why don't we do this, again I have
13 two roles here. One of them is as the military judge as I would be
14 in every case for motions to decide the legality or non-legality of
15 something whether it's coming in. In that role, I will allow the
16 government at least, at this point, to go forward with the questions
17 on what their foundation would be with respect to admitting this
18 exhibit and then I'll allow the defense a chance to voir dire the
19 witness and decide your objections. Should I rule in favor of the
20 defense and not of this exhibit, I won't consider it. Fair to both
21 sides?

22 CDC[MR. COOMBS]: Yes, Your Honor.

23 ATC[CPT MORROW]: Yes, Your Honor.

1 MJ: Proceed. Let me see what that exhibit is first.

2 **Questions continued by the assistant trial counsel [CPT MORROW]:**

3 Q. I'm handing the witness what's been marked as Prosecution
4 Exhibit 109 for Identification. Do you recognize that document,
5 Agent Mander?

6 A. I do.

7 Q. And what is it?

8 A. It appears to be a version of the most wanted leaks of 2009
9 list that was obtained from the archive.org website.

10 ATC[CPT MORROW]: Permission to publish to the Court, Your Honor.

11 MJ: Proceed.

12 **[There was a brief pause while the assistant trial counsel published
13 the exhibit to the Court.]**

14 Q. Agent Mander, I want to focus mainly on sort of the bottom
15 of the -- of this page, specifically the line at the very bottom that
16 starts with HTTP://. Do you see that?

17 A. Yes, I can see it.

18 Q. Can you explain just by looking at that line what this web
19 image or what this printout shows or what exactly that means down at
20 the bottom?

21 A. As I mentioned, when you print a document using your web
22 browser various web browsers will allow you to include in the header
23 or footer of what you're printing information such as the URL of the

1 document you're printing. So, for example, based on this footer
2 here, this would be a document that was printed from the address
3 that's listed there that starts with the HTTP://web.archive.org.
4 Q. And what are the numbers, it says / and then a web again.
5 What are the numbers to the right of the -- starting with 2009? What
6 does that indicate?

7 A. As far as my knowledge, that would be the date and most
8 likely the time of the capture of the website which follows after the
9 numbers the HTTP://WikiLeaks.org.

10 Q. And, again, what does it say at the end after
11 WikiLeaks.org?

12 A. /wiki/draft:the_most and then it looks like the whole URL
13 is too long for the footer so it's the dots kind of indicate there's
14 more.

15 Q. Now, as part of this case, Agent Mander, have you had the
16 opportunity to see whether the website still exists even outside of
17 using the archive.org?

18 A. The WikiLeaks website?

19 Q. The WikiLeaks website, and specifically the 2009 draft.
20 The website you just looked.

21 ADC[CPT TOOMAN]: Objection. Relevance of what WikiLeaks.org
22 looked like today. Not relevant, Your Honor.

23 MJ: Where are you going with this?

1 ATC[CPT MORROW]: Your Honor, between how it looked in the
2 past and how the website still appears today, it can still -- you can
3 still find it on the web today.

4 MJ: You're asking this witness if this witness can find that
5 document today?

6 ATC[CPT MORROW]: Yes, exactly.

7 MJ: Okay. That's overruled.

8 Q. Agent Mander, please, explain how you would find this
9 document or this web page today?

10 A. That particular document I believe I had used some key
11 words and conducted a search using Google, and one of the first or
12 maybe one of the first full results was that document that is
13 actually or was on the WikiLeaks website as of just a couple of weeks
14 ago.

15 ATC[CPT MORROW]: I'm retrieving what's been marked
16 Prosecution Exhibit 110 for Identification.

17 MJ: Are you going to have similar objections to this one?

18 ADC [CPT TOOMAN]: May I see it, Your Honor? Can I have a
19 moment, Your Honor?

20 MJ: Yes.

21 **[There was a brief pause while the assistant defense counsel**
22 **retrieved and reviewed the exhibit at counsel table.]**

23 ADC [CPT TOOMAN]: Not at this time, Your Honor.

1 MJ: All right.

2 **Questions continued by the assistant trial counsel [CPT MORROW]:**

3 Q. Agent Mander, I'm handing you what's been marked as
4 Prosecution Exhibit 110 for Identification. Can you take a look,
5 please?

6 A. [Reviewing the exhibit.]

7 Q. Do you recognize that document?

8 A. Yes this is a document similar to the one that you just
9 showed me. It is the version that you would find on the
10 WikiLeaks.org website as of June 1st.

11 Q. And how do you know that?

12 A. I went to the site and printed out this document and I have
13 initialed the bottom above the date and time on each page.

14 Q. And what did you do -- So, how was that document created?
15 You printed it?

16 A. I printed it, yes.

17 ATC[CPT MORROW]: Permission to publish to the Court, Your
18 Honor.

19 MJ: Proceed.

20 [There was a brief pause while the assistant trial counsel published
21 the exhibit to the Court.]

22 Q. Agent Mander, how is this web page -- how is this web page
23 organized?

1 A. Well generally speaking, it looks like it's ----
2 Q. Do you need the exhibit back?
3 A. Sure. At the top of the document it says the word
4 draft:themostwantedleaksof2009-sort, and generally speaking below
5 that there is somewhat of like a table of contents which are links,
6 and each of the links represents the various countries in
7 alphabetical order to include like a miscellaneous category of
8 international organizations. And then below that are listed various
9 countries and below each country appears to be a list of documents or
10 other information.

11 Q. Does the United States appear on that list?

12 A. The United States does appear on this list.

13 Q. And what page is that?

14 A. It begins on Page 9 and appears to go to Page 11.

15 ATC[CPT MORROW]: Your Honor, permission to publish Page 9 to
16 the Court.

17 MJ: Proceed.

18 [There was a brief pause while the assistant trial counsel published
19 the exhibit to the Court.]

20 Questions continued by the assistant trial counsel [CPT MORROW]:

21 Q. Agent Mander, at this time, I'd like you to move to the
22 panel box, please, if you would?

23 A. What's the panel box?

1 Q. Right here. You can just leave the exhibit back. Thank
2 you.

3 ATC[CPT MORROW]: I'm handing Agent Mander what's been
4 admitted as Prosecution 81.

5 Q. Mr. Mander, Agent Mander, I'd like you to scroll down to 28
6 November in that exhibit.

7 A. Okay.

8 Q. And I'd like you to look at lines 27 through 33.

9 A. Okay.

10 Q. What are lines 27 to 23 -- or 33, what do they say?

11 A. The whole line or just the action column?

12 Q. The action line, please.

13 A. From line 27 the action column reads,

14 'retention+of+interrogation+videos'.

15 Q. On this list found on this website, do you see any similar
16 information?

17 A. Can you move up to the top of the document?

18 Q. Let me help you. Do you see anything under Military
19 Intelligence?

20 A. On the second bullet there's a CI detainee interrogation
21 videos. That appears there.

22 Q. And, again, like for you to scroll to, in that exhibit that
23 you are looking at. Scroll to lines 114 and 115, please.

1 A. Okay.

2 Q. What do you see? What's the action there? What's the
3 information?

4 A. Line 114 it reads, 'interrogation+tapes' and line 115 it
5 reads, 'interrogation+video'.

6 Q. Agent Mander, now, I'd like to go back to 29 November,
7 please and lines 43 and 44 specifically.

8 A. Okay.

9 Q. And have you found that?

10 A. I have.

11 Q. And what are the lines -- what do those read?

12 A. The action column it reads, 'detainee+abuse' and that's for
13 line 43, line 44 is the same, 'detainee+abuse'.

14 Q. And does similar information exist under the Military
15 Intelligence section of this web page?

16 A. On the fourth bullet the words, 'detainee abuse photos
17 withheld by the Obama administration'.

18 Q. Now, I'd like to go to 30 November in line 62.

19 A. Okay.

20 Q. And what does that line read?

21 A. The action column also reads, 'detainee+abuse'.

1 Q. Now, I want you to go to a series of searches starting on
2 8 December. I'm looking specifically at -- if you could refer to
3 lines 100 through 111.

4 A. Line 100, the action column reads,
5 'Guantanamo+detainee+operations'.

6 Q. Okay. Just keep reading. Just read all of them down to
7 111.

8 A. The next line, 'JTF+G-T-M-O' GTMO. The next line is,
9 'JTF+GTMO', excuse me 'G-T-M-O+SOP'. Next line is C-J-T-
10 F+82+detainee+ SOP'. Next line is 'C-J-A-T-F-
11 +82+detainee++operations'. Next line is, 'J-T-F+G-T-M-
12 O+SOP+interrogation'. Next line is, 'C-G', excuse me, 'C-J-T-F+101'.
13 The next line is, 'J-T-F+G-T-M-O+SOP+interrogation'. The next line
14 is, 'SOP+interrogation'. The next line is, 'J-T-F+G-T-M-O'. The
15 next line is, 'J-T-F+G-T-M-O+SOP'. The next line is, 'J-T-F+G-T-M-
16 O+Delta+SOP'. The next line is, 'human+rights+campaign'.

17 Q. Okay. First what's SOP mean to you as somebody who's been
18 in the military?

19 A. Generally that's an abbreviation for an acronym for
20 standard operating procedure.

21 Q. And what does Delta mean to you in the context of these
22 searches?

1 A. I would assume that would be Camp Delta, which is a portion
2 of Guantanamo Bay and the detainee facility there.

3 Q. Now, those lines 100 through 111, is any similar
4 information or items appear in this list here? I'll give you a
5 moment. I would ask you just to review all the way down. When you
6 see something that catches your eye, please, let me know.

7 A. **[Reviewing the document.]** On the, I believe it's the
8 seventh bullet use the word Camp Delta (Guantanamo) standard
9 operating procedures, excuse me procedure 2005/2009. Two bullets
10 below that is the words, 'unredacted inquiry into treatment of
11 detainees in U.S. custody 20 November 2008'. A few bullets below
12 that is the words Camp Delta (Guantanamo standard operating procedure
13 2005-2009', below that is Camp Delta (Guantanamo interrogation
14 standard operating procedure 2003-2009, and that appears to be all
15 what I see.

16 ATC[CPT MORROW]: Your Honor, at this time the prosecution
17 moves to admit Prosecution Exhibits 109 and 110 into evidence as
18 Prosecution Exhibit 109 and 110.

19 MJ: All right. Well, I'm going to allow the defense to voir
20 dire witness before ----

21 ATC[CPT MORROW]: Sure, of course.

22 MJ: ---- we do that. Are you finished?

1 ATC[CPT MORROW]: No, no, I'm not, actually. I'm sorry. I
2 have a few more questions to go through regarding different exhibits
3 but I can stop now, if you like.

4 MJ: Why don't we stop now? I'll let the defense voir dire and
5 we'll concentrate on those exhibits. We'll go a little bit out of
6 order and then we'll call -- we'll resolve that issue and then we'll
7 go forward with the rest of your direct.

8 ATC[CPT MORROW]: I'm replacing Page 9 in Prosecution Exhibit
9 for ID 110.

10 MJ: Now, does the witness need to remain there or can the
11 witness come back to the chair?

12 ATC[CPT MORROW]: The witness can go back to the chair, Your
13 Honor.

14 MJ: All right.

15 **[The witness resumed his seat at the witness stand.]**

16 ADC [CPT TOOMAN]: We would object to Prosecution Exhibit 110 as
17 hearsay.

18 TC[MAJ FEIN]: Ma'am, the United States is retrieving
19 Prosecution Exhibit 81 from the witness.

20 MJ: Okay.

21 ATC[CPT MORROW]: I'm handing the court reporter Prosecution
22 Exhibit 110 for ID.

23

1

VOIR DIRE EXAMINATION

2 Questions by the assistant defense counsel [CPT TOOMAN]:

3 Q. Agent Mander, I want to talk to you a little bit about
4 archive.org, Wayback machine. Prosecution Exhibit 109 for
5 Identification. You didn't actually visit WikiLeaks.org in 2009, did
6 you?

7 A. No, not in 2009.

8 Q. So you didn't actually see what their website looked like
9 in 2009?

10 A. In 2009 I did not actually go to the website and see it.

11 Q. And with archive.org what you see is what they tell you was
12 there, you didn't actually see what was there in 2009?

13 A. If I go to archive.org I see what is presented for the date
14 that they say that it was there.

15 Q. Okay. You don't have any knowledge of how archive.org
16 actually compiles their data, do you?

17 A. I do not. I have various, I guess, you can say,
18 assumptions of how it works based on my knowledge in the field.

19 Q. But you don't know where that data comes from?

20 A. Which data?

21 Q. The data that's on archive.org.

22 A. I would assume that it comes from the sites that are
23 presented that they archive.

1 Q. So you don't know where it comes from? You don't know how
2 the data is gathered?

3 A. Technically, no, I don't know how that data is gathered.

4 Q. You don't know how often that data is gathered? You don't
5 know the frequency of that data gathering?

6 A. I can say that the frequency appears to be just periodic.
7 It doesn't seem to have a set schedule just based on the results that
8 are available.

9 Q. And you don't know if that's all of the data because you
10 didn't actually go to the website in 2009, correct?

11 A. The website?

12 Q. So in this case we're talking about the WikiLeaks most
13 wanted list. You didn't actually go to it in 2009, so when you are
14 looking at it on archive.org, you don't know if anything is missing,
15 correct?

16 A. That would be a fair statement.

17 Q. Now, you mentioned on direct that when you go to
18 archive.org there are some days that are missing. Do you know why
19 that is?

20 A. I don't believe that I said that there were some days that
21 were missing.

22 Q. I think you said that the calendar would come up and you
23 can click on a day and then if you had the ability to click on the

1 day that means that archive.org is saying that we have a website for
2 that day, but I would imagine you can't click on every day, can you?

3 A. You cannot.

4 Q. So there are days missing?

5 A. There are days when the archive.org website does not appear
6 to have archived that website.

7 Q. Okay. Do you have any knowledge of whether or not a
8 website could embed code to their website that would prevent
9 archive.org from gathering their website?

10 A. I believe there is a file that web host or web masters can
11 put on their site called robot.text, and other archiving type sites
12 are supposed to respect that file, and in that file you can put in
13 certain key words I believe that tell other sites, not to archive
14 or save copies of your file or your website.

15 Q. Do you know where the archive.org servers are located?

16 A. I have no direct knowledge of that.

17 Q. Do you know when archive.org gathers their information?

18 A. You mean like time of day?

19 Q. Time of day?

20 A. Based on the results that are displayed on their website
21 for various given sites it appears to be just periodic. There
22 doesn't appear to be any particular time of day, day, day of week, or
23 any other pattern that I can discern.

1 Q. Are you aware of whether or not there have ever been
2 any hack attempts on the cache servers employed by archive.org?

3 A. I do not have any direct knowledge, but I would be
4 surprised if there were not any hacks.

5 Q. Do you have any knowledge of the operating system that the
6 servers are running?

7 A. I do not have knowledge of what operating systems they're
8 running.

9 Q. Do you have any knowledge as to whether or not there are
10 backups of servers?

11 A. I do not have any direct knowledge of that.

12 Q. Were you actually there when the particular website you
13 were talking about today, were you there when it was cached by
14 archive.org?

15 A. Was I -- when you say there?

16 Q. Were you actually there when whoever from archive.org
17 gathered what they say was this website, were you actually there when
18 they did it?

19 A. I was not at archive.org wherever their location is when
20 that was archived.

21 Q. You talked a little bit about a robot.text file that a site
22 could put on -- that a company could or a person could put on their

1 website. Do you have any knowledge of whether or not WikiLeaks had
2 one of those on their website?

3 A. I do not have any knowledge of that.

4 ADC [CPT TOOMAN]: One moment, Your Honor, please. Your Honor,
5 we have no further voir dire questions of this witness. We would
6 objection to Prosecution Exhibit 109 for Identification because this
7 witness has no personal knowledge of how archive.org operates. There
8 are a number of cases that have considered the admissibility of
9 archive.org.

10 MJ: And you plan to present those to me when?

11 ADC [CPT TOOMAN]: Right now, Your Honor.

12 MJ: Thank you.

13 ADC [CPT TOOMAN]: I will note first that none of those cases
14 are criminal cases, they all are civil cases dealing with either
15 trademark or paten law. One of them is *Telawizja*, and Pardon my
16 pronunciation.

17 MJ: Why don't we do this: You can read them on the record, but
18 if you're going to present me cases, I am going to have a Xerox copy
19 of them, right?

20 ADC [CPT TOOMAN]: Yes, ma'am.

21 MJ: Okay.

1 ADC[CPT TOOMAN]: One of them is, this is a Polish
2 pronunciation so I will butcher it, *Telawizja Polska v. EchoStar*,
3 would you like the cite, Your Honor?

4 MJ: Yes, please.

5 ADC [CPT TOOMAN]: It's 2004, Westlaw WL2367740. In that case
6 the Court required an affidavit from the wayback machine from the
7 proprietors of the wayback machine before they would allow
8 admissibility and also *St. Luke's Cataract* cite 2006, Westlaw 130242.
9 In that case the Court precluded the admissibility of the wayback
10 machine absent testimony from someone with personal knowledge. And
11 so, in that case the Court wanted actually someone from WikiLeaks.
12 In this case they would want someone from WikiLeaks to come and talk
13 about what was actually on their website at the time. So our
14 objection to Prosecution Exhibit 109 for Identification would be
15 authentication as well as double hearsay, and we will, of course, get
16 you those cases, Your Honor.

17 MJ: Thank you, and your objection to Prosecution Exhibit 110 is
18 hearsay?

19 ADC [CPT TOOMAN]: Yes, ma'am.

20 MJ: Okay. Government, do you have any case authority for me?

21 ATC[CPT MORROW]: The government believes there are some more
22 recent cases, Your Honor, that would shed light on the issue with
23 respect to the double hearsay issue. I don't think it's a double

1 hearsay issue. Agent Mander's testimony was very clear that is a
2 battle site printout that was a representation of the archive.org
3 website capturing another website.

4 MJ: So are you offering it for the truth of the matter asserted
5 or not?

6 ATC[CPT MORROW]: No, Your Honor. We're offering both
7 exhibits for its impact on the listener.

8 MJ: Okay. The hearsay objection to Prosecution Exhibit 110, is
9 overruled. So if there is not any other objections to Prosecution
10 Exhibit 110 I'll admit that.

11 ADC [CPT TOOMAN]: Your Honor, we would also object based on
12 relevance. There is absolutely no evidence that PFC Manning actually
13 ever saw this particular website. So absent that the defense
14 believes it is not relevant.

15 MJ: What's the relevance?

16 ATC[CPT MORROW]: Your Honor, I believe Agent Mander used
17 Prosecution Exhibit 81 to go through and provide circumstantial
18 evidence through his testimony of the user of those computers
19 searching for information very similar to information of the similar
20 site.

21 MJ: What's the difference between Prosecution Exhibit for
22 Identification 109 and 110?

1 ADC[CPT TOOMAN]: There's no difference, Your Honor. In
2 fact, we would, we can leave the issue alone. If the -- Prosecution
3 Exhibit 110 is admitted.

4 MJ: Wait a minute, let's go back. Prosecution Exhibit 1 -- And
5 I know you have to go. Just remind myself of the witness, maybe I
6 can ask him some questions right now.

7 ADC[CPT TOOMAN]: Yes.

8 MJ: Prosecution Exhibit 110, what is it and what did you do to
9 get it?

10 WIT: Can I see the two exhibits? To answer your question,
11 ma'am, I believe the one exhibit is directly from the WikiLeaks
12 website which was recently within the last couple of weeks and the
13 other version is the archive.org version of the same document as
14 captured, reportedly captured in, well, reportedly captured in 2009
15 by the archive.org website.

16 MJ: So, with Prosecution Exhibit 110, was your testimony that
17 you basically Googled the WikiLeaks website and there that document
18 was and you printed it.

19 WIT: How can I tell which one's ----

20 ATC[CPT MORROW]: The numbers are on the bottom ---- Agent
21 Mander, if you refer to the one you printed yourself ----

22 WIT: And initialed?

23 ATC[CPT MORROW]: Yes.

1 WIT: I'm sorry, ma'am.

2 MJ: That's okay. So the one he printed himself is Prosecution
3 Exhibit 110, right?

4 ATC[CPT MORROW]: Yes, ma'am.

5 MJ: So, tell me how you got Prosecution Exhibit 110, what did
6 you do?

7 WIT: I went directly to the WikiLeaks.org website and printed
8 out the document that I had on my screen.

9 ADC[CPT TOOMAN]: Your Honor, just with respect to
10 Prosecution Exhibit 110 for Identification, we would renew the
11 relevance objection based on the fact that this was, I think, the
12 date on that it's 1 June.

13 MJ: Again, I'm going to overrule that. That's the date of 1
14 June, the document itself has a different date in it that is in the
15 document that's on the website. So what you're arguing is going to
16 weight, not admissibility.

17 ADC [CPT TOOMAN]: Okay. Your Honor, we just think that the
18 date of 2009, there's no proof or no evidence that that was actually
19 up on the website in 2009 nor is there evidence that PFC Manning
20 actually saw in it in 2009.

21 MJ: I understand all of that.

22 ADC[CPT TOOMAN]: Thank you, Your Honor.

1 MJ: Now, with respect to Prosecution Exhibit 109, I will take
2 that under advisement. I will consider the authority offered by both
3 sides and make a ruling probably tomorrow morning.

4 ADC[CPT TOOMAN]: Yes, ma'am.

5 ATC[CPT MORROW]: Yes, Your Honor.

6 MJ: And do you have cases to give me as well?

7 ATC[CPT MORROW]: We have several cases that we have -- yes,
8 we do.

9 MJ: In hard copy?

10 ATC[CPT MORROW]: Yes, Your Honor.

11 MJ: All right. Depending on how voluminous this authority is,
12 my ruling may not come tomorrow morning, but it will be coming.

13 ATC[CPT MORROW]: I'm retrieving Prosecution Exhibit 110 and
14 Prosecution Exhibit 109 for Identification from the witness.

15 MJ: Can I see Prosecution Exhibit 110?

16 ATC[CPT MORROW]: Yes, ma'am.

17 MJ: Prosecution Exhibit 110 is admitted.

18 **DIRECT EXAMINATION (continued)**

19 **Questions by the assistant trial counsel [CPT MORROW]:**

20 Q. Agent Mander, are you familiar with the term, social media?

21 A. Yes, I am.

22 Q. And what is social media?

1 A. Generally the term, social media, refers to either websites
2 and/or systems that encourage members of the general public to create
3 accounts and then encourages them to communicate with each other.

4 Q. And what are some examples of social media websites?

5 A. Some examples might include the website Facebook, the
6 website MySpace as well as Twitter as an example.

7 Q. And what is Twitter?

8 A. Twitter is both a website as well as I guess you can
9 consider it software that runs in various platforms that allows
10 members of the general public to submit short messages which other
11 members of the general public can then follow or subscribe to.

12 Q. During the course of an investigation, do you recall having
13 seen a WikiLeaks organization Twitter feed?

14 A. Yes, the WikiLeaks organization has a Twitter account.

15 Q. And what is the user name or handle of that account?

16 A. I believe it's just WikiLeaks.

17 Q. And generally why do people use Twitter? What's the
18 purpose of it?

19 A. Personally I would say for entertainment, however, you
20 could also use it as a method to disseminate information generally
21 widely to the public.

1 Q. And how is Twitter set up? You know, my understanding of
2 Facebook is, you know, you have friends and those friends can see
3 your Facebook website. How is Twitter set up?

4 A. Twitter is generally set up in that any member of the
5 general public can create an account in which they can then post
6 short messages. Other members of the general public can either view
7 those messages by searching for that user or their website or they
8 can subscribe to that user's Twitter feed which is a long running
9 collection of messages directly and then presumably they get those
10 messages in real time, or near real time, as they are submitted to
11 the system or the site.

12 Q. And WikiLeaks Twitter feed you referred to earlier the
13 Twitter account is that accessible on the Internet?

14 A. It is accessible by the general public on the Internet.

15 Q. And you said there's a feed, what do you mean by, a feed?
16 Just that explain that again, please.

17 A. I would describe the Twitter feeds is basically a
18 collection of the messages that have been submitted by a particular
19 user account and they appear generally in chronological order with
20 the most recent message at the top of the feed.

21 Q. And have you observed the WikiLeaks Twitter feed recently?

22 A. Somewhat recently, yes.

23 Q. And how active is that feed?

1 A. It appears to be very active. There were messages about
2 when I last saw it about this trial occurring.

3 MJ: When was that?

4 WIT: I believe that was also ----

5 ADC [CPT TOOMAN]: Objection, Your Honor, relevance. The
6 recent feeds of WikiLeaks don't go to any element of the charges
7 against PFC Manning.

8 MJ: Tell me the last time you accessed it was.

9 WIT: It was sometime after the beginning of the Manning trial.
10 So, maybe the 3rd or 4th of June of this year.

11 MJ: What is relevant that you are trying to establish?

12 ATC[CPT MORROW]: I'm just laying a foundation of the witness'
13 knowledge of the Twitter feed that's all, Your Honor.

14 MJ: That's all I'll consider it for. Okay. Go ahead. Before
15 you continue your testimony was that software that runs on various
16 platforms, what is a platform?

17 WIT: A platform could be considered a computer, a smart phone,
18 tablet, different types of computer hardware, Your Honor.

19 MJ: Thank you.

20 **[END OF PAGE]**

21

1 **Questions continued by the assistant trial counsel [CPT MORROW]:**

2 Q. Now, have you reviewed -- when you recently reviewed the
3 Twitter feed, the WikiLeaks Twitter feed, could you tell whether
4 there had been Tweets or were the Tweets from you know several years
5 ago still available to you?

6 A. It appears that all of the publicly published messages from
7 any given account are -- remain on the site indefinitely.

8 Q. And we talked about the Internet archive previously. Now,
9 do you have to use the WikiLeaks or have you had to use the Internet
10 archive to access Tweets from the past in this feed or are those
11 Tweets still available?

12 A. When I attempted to look at Twitter messages on Internet
13 archive I received a message saying that those were unavailable, and
14 I generally assumed because of the volume of messages that are in
15 archive does not archive or catalog those.

16 ATC[CPT MORROW]: I'm retrieving Prosecution Exhibit 32 for
17 Identification. I'm showing it to defense counsel.

18 Q. Agent Mander, I'd like you to ignore the second of page on
19 this exhibit. If you would -- Would you please -- Do you recognize
20 that document?

21 A. Yes, I do.

22 Q. And what is it?

1 A. This is a printout of the Google's cached version of a
2 Twitter message sent on the WikiLeaks Twitter account.

3 Q. And, again, what's the Google -- When you say it's the
4 Google cached version, what do you mean by that?

5 A. It is the version that Google saves as a search result that
6 you can use to view a particular website if for some reason that
7 website is maybe unavailable directly.

8 Q. Now, do you have to use the Google cache version to access
9 the WikiLeaks Twitter feed?

10 A. You do not.

11 Q. Let's talk about that specific printout. Is the Tweet
12 dated?

13 A. The message is dated. It's dated, 8 or possibly 6 January
14 of 2010.

15 ATC[CPT MORROW]: Your permission to publish to the Court.

16 MJ: Go ahead.

17 **[There was a brief pause while the assistant trial counsel published**
18 **the exhibit for the Court.]**

19 Q. That's kind of hard to see, Agent Mander, but I want to
20 talk about some of the sort of graphics behind the message. Have you
21 seen -- first, can you describe sort of that graphic?

22 A. The background graphic appears to be repeated four times
23 horizontally. It appears to be I guess you could describe it as two

1 globes that are in an hour glass and they appear to be -- the top
2 upper most one appears to be dripping to the lower one.

3 Q. And have you seen that graphic like that before?

4 A. That appears to be the logo or graphic that is typically
5 permanently displayed on the WikiLeaks website.

6 Q. Now, Agent Mander, you said this is a representation of
7 something you printed, or explain exactly what this is again, please?

8 A. Sometimes we take what we call a screen capture which is a
9 -- we can use various types of software to actually take I guess what
10 you could call a picture of the computer screen, the monitor,
11 whatever we're looking at, and then save it as a graphics file. So
12 you'll actually see in the bottom right-hand corner some of the
13 information from my computer as well as what other windows I had
14 opened down in the bottom. That's kind of hard to see from this, but
15 it's there.

16 Q. And did you -- what do you after you observed this on the
17 web page? What did you do?

18 A. I believe I took a screen capture of the, you know, what I
19 was looking at and this item was printed out and -- can you move it
20 up so I can see the ----

21 Q. Sure.

1 A. ---- very bottom? On the very bottom is the time and date
2 of when this item was printed, and then those are my initials that I
3 actually put on the printed page.

4 ATC[CPT MORROW]: Your Honor, the prosecution offers
5 Prosecution Exhibit 32 for Identification into evidence as
6 Prosecution Exhibit 32.

7 ADC [CPT TOOMAN]: We will object, Your Honor. Again, personal
8 knowledge. The witness used a web cache. Didn't actually view the
9 Tweet on the date reported to be and also relevance because, again,
10 not viewed on -- I guess viewed on 1 June so it wouldn't be relevant
11 and I guess again personal knowledge of how Google ----

12 MJ: Do you want to voir dire the witness with respect to his
13 personal knowledge on Google cache?

14 ADC [CPT TOOMAN]: I would like to, yes, Your Honor.

15 ATC[CPT MORROW]: May I ask a few questions first, Your Honor?

16 MJ: Yes, go ahead and finish and then you can go.

17 **Questions continued by the assistant trial counsel [CPT MORROW]:**

18 Q. With respect to this Tweet specifically, did you read the
19 Tweet?

20 A. The message that is Tweeted is, 'have encrypted videos of
21 U.S. bomb strikes on civilians <http://bit.ly/wlafghan2>. We need
22 super computer time, [Http://ljsf.org/](http://ljsf.org/)'.

23 Q. Again, what -- when is that Tweet dated?

1 A. It appears to be either 6 or 8 January of 2010.

2 Q. And have you seen that Tweet before in another context
3 other than the Google cache?

4 A. This Tweet is also on the WikiLeaks Twitter account.

5 Q. So how would you find that Tweet on the WikiLeaks Twitter
6 account?

7 A. One of two ways. You could either do a search for it using
8 something like Google and then go directly to the Twitter page that
9 has that message or you could go to Twitter look for the WikiLeaks
10 account and then presumably scroll through all of their messages
11 until you found this particular one.

12 Q. And have you done that as part of this case?

13 A. I did the first mentioned way. There was I believe like
14 thousands of Twitter messages. So I did not read every single one.

15 Q. But you read this one?

16 A. Yes, I saw this one.

17 Q. And you printed this one?

18 A. I did.

19 Q. Do you recall when that was?

20 A. That was sometime ago. That was maybe last year.

21 ATC[CPT MORROW]: I'm retrieving the exhibit from the witness.

22 MJ: Are you finished?

23 ATC[CPT MORROW]: Yes, Your Honor.

1 MJ: All right.

2 ATC[CPT MORROW]: With respect to that Tweet.

3 MJ: So, you have more coming?

4 ATC[CPT MORROW]: I have more one Tweet coming.

5 MJ: All right. Are you anticipating the same objection?

6 ADC [CPT TOOMAN]: We would, yes, Your Honor.

7 MJ: All right. Why don't we just go through it and then you'll

8 get your chance. Go ahead.

9 ATC[CPT MORROW]: I'm retrieving Prosecution Exhibit 31 for

10 Identification from the court reporter. I'm handing the witness

11 what's been marked as Prosecution Exhibit 31 for Identification.

12 **Questions continued by the assistant trial counsel [CPT MORROW]:**

13 Q. Agent Mander, do you recognize that document?

14 A. Yes, I do.

15 Q. And what is it, and, again just concentrate on the first

16 page?

17 A. This document is a screen capture showing another Tweet

18 from a WikiLeaks website as cached by Google.

19 Q. And what date is that Tweet?

20 A. The date of the Tweet is 7 May 2010.

21 Q. And what's the content of the message?

1 A. The message reads, 'We would like a list of as many .mil e-
2 mail addresses as possible. Please contact editor@WikiLeaks.org or
3 submit'.

4 Q. And you viewed this Tweet using Google cache on your
5 computer?

6 A. I did.

7 Q. And what did you do after you observed the Tweet?

8 A. I took a screen capture and then printed out that screen
9 capture, and initialed the printed page that it was printed out.

10 Q. And did you do that at the same time as the other Tweet we
11 just talked about?

12 A. Roughly at the same time.

13 Q. Approximately?

14 A. Yes.

15 Q. And with respect to Prosecution Exhibit 31 for ID, you
16 talked -- we previously talked about the background. I'll just hand
17 it back to you. The background text, the graphics, and, again, where
18 have you seen those -- that background text and graphics?

19 A. The background graphics appear to be identical to the other
20 Tweet, and I've seen the same similar graphic on the WikiLeaks.org
21 website.

22 Q. Have you seen that message before in the WikiLeaks Twitter
23 feed, not in a Google cache form?

1 A. Yes. It's still available on the actual Twitter account of
2 their feed from the WikiLeaks Twitter account.

3 Q. When did you see that Tweet in the regular WikiLeaks
4 Twitter feed?

5 A. That was sometime ago, and I don't remember the exact date.

6 Q. Was it approximately the same date as you saw the other
7 Tweet?

8 A. Yes.

9 Q. And, again, what did you do at that time with that Tweet?

10 A. Essentially something similar, took a screen capture or
11 printed the Tweet onto paper and then initialed that piece of paper.

12 ATC [CPT MORROW]: I'm retrieving Prosecution Exhibit 31 for
13 Identification and handing it to the court reporter. Your Honor, we
14 would move to admit this exhibit for Identification as well.

15 MJ: All right. I assume the same objection?

16 ADC [CPT TOOMAN]: Yes, ma'am.

17 MJ: Okay. And what is your objection to Prosecution Exhibits
18 31 and 32?

19 ADC [CPT TOOMAN]: Your Honor, we would object on hearsay. We
20 would also object that the witness has no personal knowledge, can't
21 authenticate them. No personal knowledge of how Google creates their
22 cache.

1 MJ: If I'm understanding the government's position, they're not
2 offering it to admit on that basis, they're offering to admit it on
3 the prior or both, what are you doing?

4 ATC[CPT MORROW]: Your Honor, we actually have the prior version
5 printed and that was produced in discovery as well. The reason we
6 didn't ----

7 MJ: On what basis are you moving to admit these?

8 ATC[CPT MORROW]: Excuse me?

9 MJ: On which basis are you moving to admit these two exhibits?

10 ATC[CPT MORROW]: We are not offering either exhibit for the
11 truth.

12 MJ: I understand that.

13 ATC[CPT MORROW]: We're offering it for its effect on PFC
14 Manning.

15 MJ: Are you offering the Google cache or are you offering the
16 prior look?

17 ATC[CPT MORROW]: We're offering the prior look and we'll
18 actually add that as an Exhibit Alpha to these exhibits. The reason
19 that we didn't have them on this date is that when we printed it's
20 very hard to see the date of the Tweet. So we used this color
21 version to insert, or to mark as an exhibit so that the date could be
22 readable. We can -- we will certainly -- can attach or mark the

1 other version that Agent Mander has printed and initialed as well and
2 add that to the record.

3 MJ: All right. Go ahead Captain Tooman.

4 ADC[CPT TOOMAN]: Thank you, ma'am.

5 **VOIR DIRE EXAMINATION**

6 **Questions by the assistant defense counsel [CPT TOOMAN]:**

7 Q. Just a few questions for you about your knowledge of Google
8 cache and Twitter. Do you personally have a Twitter account?

9 A. I do not.

10 Q. Do you have any knowledge of how Twitter archives their
11 messages?

12 A. When you say knowledge, can you be more specific?

13 Q. Do you know how they do it?

14 A. I don't know.

15 Q. Do you know the process they go through in order to save
16 Tweets?

17 A. No.

18 Q. Do you know if a Tweet can be deleted?

19 A. I do not know for certain, no.

20 MJ: Yes?

21 ATC[CPT MORROW]: Your Honor, if it would help the Court we
22 are simply offering this for what it purports to be which is simply a

1 printout of a web page. So his knowledge of Twitter is not
2 necessarily relevant.

3 MJ: I'm going to overrule that. Go ahead.

4 Q. Agent Mander, I want to talk to you about Google cache. Do
5 you know how Google goes about creating their cache?

6 A. Specifically the technical aspects, no.

7 Q. Do you know where their servers are located?

8 A. I believe they have servers located in many places.

9 Q. Do you know where the servers are located that service the
10 cache?

11 A. I do not.

12 Q. Do you know how often Google goes out and creates their
13 cache, how often they go out and grab data?

14 A. I do not.

15 Q. And do you know if they use a program or a proprietary
16 algorithm in order to grab that information?

17 A. I would assume, yes, they do.

18 Q. You assume that, but do you actually know?

19 A. I do not.

20 Q. Do you know the frequency with which Google goes out and
21 grabs information?

22 A. I do not.

1 Q. Do you know if there's any way that a web page could
2 prevent Google from grabbing it?

3 A. I believe the robot.text file that we talked about before
4 is a method.

5 Q. And as you answered before when we were talking about
6 archive.org, do you also not know whether or not WikiLeaks.org
7 employs one of those robot.text files?

8 A. I do not know if they employ one of those files.

9 Q. Now, there were a couple of dates on these Tweets that were
10 hard to read. Did you ever actually look at Twitter on those dates?
11 So 6 January or 8 January 2010, did you look at Twitter on that day?

12 A. I did not.

13 Q. Do you know if the Google cache servers have ever been
14 hacked?

15 A. I do not know that.

16 Q. Do you know if anyone has ever tried?

17 A. I do not know that.

18 Q. Do you know the operating system that Google cache runs?

19 A. I do not know that.

20 Q. Do you know if they have backups of their servers?

21 A. I have no actual knowledge of that, no.

22 ADC [CPT TOOMAN]: Thank you Agent Mander. Your Honor, we
23 would renew our objections authentication for Prosecution Exhibit 31

1 for Identification and 32 for Identification as well as is hearsay,
2 Your Honor, and we'll address the other versions I guess ----

3 MJ: I believe the government told me that they're offering it
4 for nonhearsay purposes. Is that correct?

5 ATC[CPT MORROW]: We are, Your Honor.

6 MJ: What is that?

7 ATC[CPT MORROW]: With respect to the 7 May Tweet we're
8 offering it for -- offering the Tweet for its effect on the listener.
9 7 May 2010, that is the .mil e-mail addresses.

10 MJ: Okay. I'm sorry, I interrupted you. Authentication and
11 hearsay with respect to Prosecution Exhibits 31 and 32, right?

12 ADC [CPT TOOMAN]: Yes, ma'am.

13 MJ: And Prosecution Exhibit 109 you have -- your objection to
14 that one was?

15 ADC [CPT TOOMAN]: 109 would be the same, Your Honor, as well
16 as relevance.

17 MJ: Do you have any redirect?

18 **REDIRECT EXAMINATION**

19 **Questions by the assistant trial counsel [CPT MORROW]:**

20 Q. Agent Mander, well, just a couple of questions. Do you know
21 how to use the Internet?

22 A. Yes.

23 Q. Do you know how to navigate to a web page on the Internet?

1 A. Yes.

2 Q. And in this case have you navigated to web pages on the
3 Internet?

4 A. I have.

5 Q. And give me a couple of examples of web pages you've
6 navigated to on the Internet that's part of this investigation?

7 A. The WikiLeaks website, the Facebook profile of PFC Manning,
8 the Twitter messages that we've discussed as well as the archived
9 versions of various other sites. Need more examples?

10 Q. No, I think that's enough. Thank you.

11 MJ: All right, temporary excusal for this witness or permanent
12 excusa'.

13 ADC [CPT TOOMAN]: I'm sorry, Your Honor, at least I was
14 personally under the impression that I just voir dire the witness.

15 MJ: You have further cross-examination?

16 ADC [CPT TOOMAN]: Yes, ma'am.

17 MJ: Okay. I didn't realize that. I guess you're still on your
18 direct examination.

19 ATC[CPT MORROW]: I am, so I guess I'm looking for my direct,
20 so give me a second.

21 MJ: Would this been a good time to recess the Court for
22 about 10 minutes.

23 ATC[CPT MORROW]: Absolutely, Your Honor.

1 ADC [CPT TOOMAN]: No objection, Your Honor.

2 MJ: All right. Is 10 minutes enough?

3 ATC[CPT MORROW]: Yes, ma'am.

4 ADC[CPT TOOMAN]: Yes, ma'am.

5 MJ: All right. The Court is in recess until 1715. Agent
6 Mander, please don't discuss your testimony or knowledge of the case
7 with anyone while the Court is in recess.

8 **[The court-martial recessed at 1708, 10 June 2013.]**

9 **[The court-martial was called to order at 1720, 10 June 2013.]**

10 MJ: Court is called to order. Let the record reflect all
11 parties present when the court last recessed are again present in
12 court. The witness is in the courtroom. You are reminded you are
13 still under oath. Proceed.

14 ATC[CPT MORROW]: Your Honor, at this time the prosecution has
15 no further questions for Agent Mander.

16 MJ: Captain Tooman.

17 ADC [CPT TOOMAN]: Thank you, ma'am. Ma'am, before I begin my
18 cross examination I'd like to ask two voir dire questions ----

19 MJ: That's fine.

20 ADC[CPT TOOMAN]: ---- of the witness with respect to the
21 Tweets and the government assertion that they would like to admit it
22 for the effect of the listener.

23 MJ: Okay.

VOIR DIRE EXAMINATION

2 Questions by the assistant defense counsel [CPT TOOMAN]:

3 Q. Agent Mander, did you do find any evidence that PFC
4 Manning -- over the course of your investigation, did you find any
5 evidence that PFC Manning actually viewed those Tweets?

6 A. I personally did not.

7 8 Did you look for it? Did you look for that evidence?

8 A I did not personally look for that evidence.

9 ADC [CPT TOOMAN]: I guess for our objection, Your Honor, we
10 would add relevance if there's no the evidence that PFC Manning
11 actually saw at Tweets there could be no effect on him.

12 MJ: All right. So you have three objections to all three of
13 them?

14 ADC [CPT TOOMAN]: Yes, ma'am.

15 MI: Okay. Relevance, authentication, and hearsay.

16 ADC [CPT TOOMAN]: Yes, ma'am.

17 M.T.: Got it.

18 Questions continued by the assistant defense counsel [CPT TOOMAN]:

19 Q. Agent Mander, I'd like to talk just a little bit about your
20 investigation generally. Sort of the tenant of your profession is
21 that if you do something you document it.

33 A Yes

1 Q. And if you find a lead or a clue you're going to document
2 that as well, correct?

3 A. Yes.

4 Q. If you talk to a witness you'll document that?

5 A. Yes.

6 Q. If you researched something and uncover something relevant
7 to the investigation you would document it?

8 A. Yes.

9 Q. Now, over the course of your investigation in this case you
10 did a lot of different types of things you talked about on direct
11 examination. You did witness interviews?

12 A. Yes.

13 Q. You -- I think you reviewed e-mails?

14 A. Yes.

15 Q. You've reviewed chats?

16 A. Yes.

17 Q. You also reviewed financial transactions?

18 A. Could you be more specific?

19 Q. Did you look at banking records as well?

20 A. I don't remember specifically looking at any banking
21 records personally.

22 Q. Okay. So when you're looking at those various things, if
23 you have something important you put it up, you write it down in an

1 AIR and you notify kind of everyone who is involved that, hey, we've
2 got this lead and let's go after this, correct?

3 A. Generally speaking, yes.

4 Q. Now, thinking about all the things that you looked at in
5 this case you looked at chats and e-mails and witness interviews.

6 When you were investigating this case you knew what PFC Manning was
7 accused of, correct?

8 A. Generally, yes.

9 Q. You knew generally what the charges were against him?

10 A. Depending on what point of the investigation initially, no,
11 there weren't any charges for, you know, extended period of time.

12 Q. Okay.

13 A. And I believe the charges at some point were modified, and
14 I don't know the legal term for that but.

15 Q. Okay. But when there were charges you knew what they were
16 and when the charges changed you knew what they were at that point as
17 well?

18 A. Generally speaking, yes.

19 Q. Over the course of your investigation you didn't find any
20 evidence that PFC Manning had antiAmerican beliefs, correct?

21 A. Well, as we discussed when we had an interview, yourself
22 and myself, there was one thing that I mentioned to you that was
23 brought up by a witness of this case.

1 Q. But not a witness you personally interviewed?

2 A. Correct.

3 Q. So in the course of your investigation, and I just want to
4 talk about the things you did and the things you looked at and the
5 people you talked to.

6 A. Okay.

7 Q. You didn't find any evidence or any indication that PFC
8 Manning was antiAmerican that he hated America?

9 A. No.

10 Q. You also didn't find any evidence that PFC Manning was
11 trying to help the enemy, that he wanted to affirmatively give
12 something to the enemy?

13 A. Is that a question?

14 Q. Yes. You never found anything in witness interviews,
15 chats, e-mails where PFC Manning said something like I want to help
16 the enemy?

17 A. I did not find anything where he said he wanted to help the
18 enemy.

19 Q. Okay. You also reviewed a lot of communications with
20 individuals and you would have noted any contact with the more than
21 nationals you would have noted, correct?

22 A. Correct.

1 Q. And you noted some, you found out some because PFC Manning
2 lived in Wales for a while so you had foreign contacts, correct?

3 A. Yes.

4 Q. And for a while that was kind of a focus of your
5 investigation you thought that maybe PFC Manning was working for some
6 sort of foreign intelligence service, correct?

7 A. That wasn't really the CID focus. That was probably more
8 of the Army Military Intelligence focus.

9 Q. Okay. But when you were conducting your interviews you
10 certainly explored that idea, didn't you?

11 A. Yes, that was a question that we would have asked.

12 Q. And you didn't find any evidence that he was associated
13 with any sort of foreign intelligence service, correct?

14 A. I did not personally find that, no.

15 Q. You also didn't find any evidence that PFC Manning was paid
16 in any way for any releases he may have done?

17 A. I did not personally find out find any information that he
18 was paid.

19 ADC[CPT TOOMAN]: At this time I'm going to retrieve what's
20 been marked as Defense Exhibit Alpha for -- I'm sorry Foxtrot for
21 Identification. I'm handing Defense Exhibit Foxtrot for
22 Identification to the witness.

23 Q. Agent Mander, do you recognize that document?

1 A. Yes, I do.

2 Q. What is it?

3 A. This appears to be a printout of a web page on
4 WikiLeaks.org website.

5 Q. How do you know that?

6 A. I printed this out and my initials appear on the lower
7 right-hand corner of each page.

8 Q. How did you -- How did you find that document?

9 A. This document is a variation of the other document that the
10 prosecution mentioned earlier.

11 MJ: Which other document?

12 WIT: Say again?

13 MJ: Which other document?

14 WIT: I believe it's Exhibit 110, if I'm not mistaken, ma'am.

15 ADC[CPT TOOMAN]: Prosecution Exhibit 110, Your Honor.

16 WIT: And this document, the other document as well as some other
17 information relating to this most wanted leaks of 2009 document were
18 revealed via search on the Internet specifically using Google.

19 Q. Okay. And you did that search?

20 A. I did that search.

21 Q. And you printed that document?

22 A. I printed that document.

1 ADC[CPT TOOMAN]: I'm going to retrieve Prosecution, or I'm
2 sorry, Defense Exhibit Foxtrot for Identification and request the
3 Court's permission to publish it?

4 MJ: Proceed.

5 **[There was a brief pause while the assistant defense counsel**
6 **published the exhibit to the Court.]**

7 Q. Now, you testified about a similar document on direct.
8 What is different about this document, Agent Mander?

9 A. Well, the most notable difference from Exhibit 110 on the
10 top there where it says, 'draft:themostwantedleaksof2009', on the
11 other document Exhibit 110 document at the end of 2009 there's the
12 word hyphen, well excuse me, there's a hyphen and then the word sort,
13 S-O-R-T.

14 Q. Would you agree with me that this document also includes a
15 little bit more information at the top of the document?

16 A. The documents are similar, but different.

17 Q. Would you agree that this -- Defense Exhibit Foxtrot has
18 more introductory information than Prosecution Exhibit 110?

19 A. Yes in the list of countries on the right versus the left
20 and there's obviously some other differences as well.

21 Q. The biggest difference would be, you would agree would be
22 that and I'm pointing you to the very first paragraph here at the

1 top. That paragraph does not appear on the version introduced by the
2 government, correct?

3 A. I would have to see both documents again.

4 Q. Okay.

5 A. And look at them.

6 ADC[CPT TOOMAN]: I'll retrieve Prosecution Exhibit 110,
7 please. I'm going to hand Prosecution Exhibit 110 to the witness.

8 WIT: I'm sorry, could you repeat your question?

9 Q. Would you agree that the introductory portion of the
10 Defense Exhibit Foxtrot for Identification is not included on
11 Prosecution Exhibit 110? Just there on the first page -- actually,
12 look through the entire document and just make sure for me that it
13 doesn't appear anywhere in there.

14 A. **[Reviewing the document.]** The paragraph on the displayed
15 version does not appear to be in this document.

16 ADC[CPT TOOMAN]: I'm going to retrieve Prosecution Exhibit
17 110 from the witness. Returning them to the court reporter.

18 MJ: May I see both of those exhibits quickly?

19 ADC[CPT TOOMAN]: Yes, ma'am.

20 MJ: Well, you haven't introduced yours yet?

21 ADC[CPT TOOMAN]: Not yet, ma'am.

22 MJ: Go ahead. I don't need it. Go ahead.

1 ADC[CPT TOOMAN]: I'm giving Prosecution Exhibit 110 to the
2 court reporter.

3 **Questions continued by the assistant defense counsel [CPT TOOMAN]:**

4 Q. Now, Agent Mander, you would agree with me that this
5 version Defense Exhibit Foxtrot, includes more information about how
6 this list was populated, correct? And if you need to take a moment
7 to read that, please, do.

8 A. This version is an editable version so that general members
9 of the public can edit this version.

10 Q. And what this version says at the top is that the most
11 wanted leaks, the concealed documents are what they are, the
12 concealed documents are recordings most sought after by a country's
13 journalists, activists, historians, lawyers, police, or human rights
14 investigators. Do you agree with that?

15 A. That's a paraphrase of what it says, sir.

16 Q. A paraphrase or literally what it says?

17 A. Paraphrase of what it says.

18 Q. Okay. We'll try it again. 2009's most wanted leaks-the
19 concealed documents are recordings most sought after by a country's
20 journalists, activists, historians, lawyers, police, or human rights
21 investigators?

22 A. That is exactly ----

23 Q. Is that literally what it says?

1 A. That's literally what it says.

2 Q. Okay. And that paragraph didn't appear on the prosecution
3 exhibit, correct?

4 A. It did not.

5 Q. And you would agree with me that this demonstrates kind of
6 the purpose of WikiLeaks. Would you agree with that?

7 A. Can you be more specific?

8 Q. Sure. You would agree that this statement at the beginning
9 sets out why WikiLeaks wants these documents they don't -- they want
10 it because they have been ----

11 ATC[CPT MORROW]: Objection, Your Honor, speculation.

12 MJ: Ask some foundational questions about whether he knows that
13 why WikiLeaks wants documents.

14 Q. Agent Mander, do you know why WikiLeaks wants documents?

15 A. I don't have the actual knowledge of why they want specific
16 documents. I presume that ----

17 MJ: You presume based on?

18 WIT: My experience knowledge of this case.

19 Q. Would this document also aid your presumption?

20 A. Can you clarify your question?

21 Q. When reading this introductory paragraph does that I guess
22 inform your understanding of why WikiLeaks wants documents?

1 A. It just seems to say that in 2009 those are the most wanted
2 documents by those groups of people. It doesn't necessarily say why
3 WikiLeaks wants them.

4 Q. Let's move down to this paragraph. Can you see where I'm
5 pointing here? I'm pointing to the paragraph that starts with,
6 'document other materials added, nominated must,' and you would agree
7 with me that it says, 'be likely to have political, diplomatic,
8 ethical, or historic impact on release?

9 A. That is what it says.

10 Q. Okay. Now, having read that and seen that, does that
11 inform your understanding of what WikiLeaks -- the purpose of
12 WikiLeaks and what they want?

13 A. My understanding of this document is that they were trying
14 to create a list of documents that would be the categories listed
15 below where I just pointed out, things that are political,
16 diplomatic, or other things that would be impactful.

17 ADC[CPT TOOMAN]: Your Honor, at this time the defense offers
18 Exhibit Foxtrot for Identification as Defense Exhibit Foxtrot.

19 MJ: Any objection?

20 ATC[CPT MORROW]: One moment, Your Honor. Your Honor, the
21 objection would be authentication. We're not sure what this document
22 purports to be based on at least the witness' testimony.

1 MJ: All right. Tell me one more time, you have Prosecution
2 Exhibit 110, which I did admit. I'm not asking the government, I'm
3 asking the witness now just a question here. Prosecution Exhibit
4 110, and I would like to see that exhibit now, if I could, and
5 Defense Exhibit Foxtrot together.

6 WIT: Ma'am, I'm handing you Defense Exhibit Foxtrot for
7 Identification.

8 MJ: Special Agent Mander, Prosecution Exhibit 110 you've
9 already testified that it's different from Defense Exhibit Foxtrot.
10 Both of those exhibits, Defense Exhibit Foxtrot for Identification
11 have your initials and printed Saturday, June 1st on the bottom
12 right. Is that correct?

13 WIT: That is correct.

14 MJ: It looks like the one Defense Exhibit Foxtrot is printed at
15 15:39:36 and the Defense Exhibit Foxtrot for Identification was at
16 15:37:47. So Defense Exhibit Foxtrot for Identification came after -
17 - you printed that one after the government exhibit?

18 WIT: If that's the way the times match up, yes, ma'am.

19 MJ: I just want to ask the witness a couple of questions here
20 just because I'm confused.

21 ADC [CPT TOOMAN]: Yes, ma'am.

22 MJ: I'm going to hand you both of the exhibits and can you just
23 walk me through how you got them both and what you did?

1 WIT: There were some other documents that accompanied these.

2 Are those available?

3 ATC[CPT MORROW]: Your Honor, those have been produced in
4 discovery, but they're not part of the exhibit.

5 MJ: Okay. Can you tell me what you did without referencing
6 those particular documents?

7 WIT: Ma'am basically conducted a search using I believe the
8 words the most wanted leaks of 2009, using Google. There were
9 numerous results that came as a result of that search and the first I
10 believe it was the first four contained three versions of this list
11 or similarities to this list and the Prosecution Exhibit 110 was one
12 version of that list. The, I guess Defense Exhibit F -- excuse me,
13 Foxtrot is another version of this list, and there was additionally a
14 third shorter version as well as a video related to the list.

15 MJ: And did you print -- you printed both versions yourself,
16 right?

17 WIT: I believe I printed all three versions.

18 MJ: Thank you. Government your objection is authentication and
19 I admitted Prosecution Exhibit 110. Wouldn't the basis for admission
20 on authentication be the same?

21 ATC[CPT MORROW]: Your Honor, actually, the better objection
22 really is relevance. I'm not sure what the relevance of this
23 specific exhibit is.

1 MJ: Well, if Prosecution Exhibit 110 is relevant why isn't this
2 one relevant?

3 ATC[CPT MORROW]: They haven't laid foundation for why this
4 one might be relevant.

5 MJ: All right. Go ahead.

6 ATC[CPT MORROW]: Additionally, Your Honor, we'd also object
7 on the basis of hearsay. What are they offering it for?

8 MJ: Go ahead.

9 ADC[CPT TOOMAN]: Would you like me to respond to that, Your
10 Honor?

11 MJ: Yes, please.

12 ADC[CPT TOOMAN]: Well, Your Honor, I guess most simply, you
13 admitted theirs, it's the exact same thing done the exact same way so
14 it should be admissible. With respect to hearsay we would say Rule
15 106, Rule of Completeness if this is basically the same version. If
16 you look at the URL, it is identical with the exception of a hyphen
17 sort.

18 MJ: So, they have the same URL with the exception of the hyphen
19 sort? I didn't look at that on the two exhibits. I'm still
20 confused. So, when you pulled this -- you pulled it up, you got,
21 normally when you search Google something you get a list of things.

22 WIT: Yes, ma'am.

23 MJ: So they listed one, two, three, four or?

1 WIT: There was -- I believe there was ten results as a result of
2 the search on the page initially the Google results and then within
3 the first four results were different versions of this list, and
4 these are two versions of that list.

5 MJ: I'm going to overrule the objection. Any others?

6 ATC[CPT MORROW]: Your Honor, the government notes that we
7 think the Rule of Completeness would assume the truth of the
8 statement or the truths of the statement.

9 MJ: Why does the Rule of Completeness assume the truth of the
10 statement?

11 ATC[CPT MORROW]: At least that's the government's
12 understanding of that Rule, Your Honor.,

13 MJ: Isn't Rule 106 -- usually -- Rule 106 would normally be one
14 document if part of the document then the other side can bring in the
15 rest of the document, right?

16 ATC[CPT MORROW]: May I ask him a couple of questions about
17 the difference of the document?

18 M.J.: Go ahead.

BEDROCT EXAMINATION

20 Questions by the assistant trial counsel [CPT MORROW]:

21 Q. Agent Mander, you said that you searched for WikiLeaks most
22 wanted and came up with a number of results?

23 A Yes

1 Q What -- when a number of results come up, what does that
2 mean?

3 A Can you be more specific?

4 Q Are they -- Were they in the same location on the Internet?

5 A Both documents were on the WikiLeaks.org website.

6 Q But, it wasn't exactly -- you had to navigate from that
7 website to another place on the website. Is that correct?

8 A When I initially went to the main WikiLeaks.org website
9 recently on June 1st you could not directly navigate to either one of
10 these lists.

11 Q But the -- okay.

12 ATC[CPT MORROW]: No further questions.

13 MJ: Well, wait a minute now I'm confused again. You printed
14 out those documents and they say June 1st. How could you print them
15 out if you never got them?

16 WIT: When I used Google I used the search term the most wanted
17 leaks of 2009. That resulted in numerous search results. These were
18 two of those results. If you go to the WikiLeaks.org website
19 directly without searching for it there are many links and other
20 various bits of information on this page, however, there is nothing
21 that will immediately take you, or nothing you can click on that will
22 take you to either one of these lists from their main web page, their
23 home page. Does that make it any clearer, ma'am?

1 MJ: Let me just make sure I understand your testimony. You
2 went on Google and this isn't Google cache, this is just Google?

3 WIT: This is Google.

4 MJ: So you go on Google, and you found Defense Exhibit Foxtrot
5 for Identification and Prosecution Exhibit 110 in your search?

6 WIT: Yes, ma'am.

7 MJ: And they come up two of the ten results that you found?

8 WIT: Yes, ma'am.

9 MJ: And then if you go -- on June 1st -- and you printed it off
10 Google?

11 WIT: Correct. Well, I printed it off the actual location where
12 the documents appeared.

13 MJ: And then you went to the WikiLeaks website and you couldn't
14 access them that way?

15 WIT: You cannot navigate to them from the home page of the
16 WikiLeaks.org website, meaning you could not click on anything on
17 that home image that would take you to these documents.

18 MJ: I think I understand. All right.

19 WIT: If I may expound on that.

20 MJ: Yes.

21 WIT: I believe there was a question in regards to, could the
22 general public find these on the WikiLeaks website just by going to

1 the main website and presumably they wouldn't. They would find them
2 doing a search, but not going to the website directly.

3 MJ: Okay. I'm still in the same position I was in before. If
4 Prosecution Exhibit 110 comes in then that's ----

5 ATC[CPT MORROW]: Your Honor, we'll withdraw the objection.

6 MJ: ---- Defense Exhibit Foxtrot has the same ruling. Proceed.
7 So, it's admissible.

8 ADC[CPT TOOMAN]: Thank you, ma'am.

9 MJ: Do you want to give it to me, I'll sign it.

10 ADC[CPT TOOMAN]: I'm sorry, ma'am?

11 MJ: Do you want to give it to me and I'll admit it.

12 ADC[CPT TOOMAN]: Retrieve Defense Exhibit Foxtrot and
13 Prosecution Exhibit 110 from the witness, and, Your Honor, Defense
14 Exhibit Foxtrot and I'm going to hang onto this.

15 MJ: Defense Exhibit Foxtrot for Identification is admitted.

16 ADC[CPT TOOMAN]: Ma'am, permission to publish Prosecution
17 Exhibit 110?

18 MJ: Go ahead.

19 [There was a brief pause while the assistant defense counsel
20 published the exhibit to the Court.]

21 ADC[CPT TOOMAN]: I'm placing on the overhead Prosecution
22 Exhibit 110, Page 9.

23

1 **Questions continued by the assistant defense counsel [CPT TOOMAN]:**

2 Q. Agent Mander, you spoke on direct about a number of Intel
3 Link searches that you found that corresponded to things on
4 Prosecution Exhibit 110, correct?

5 A. I did not actually find the Intel Link searches. That was
6 someone else from the forensics team.

7 Q. Right. Okay. You look at the Intel Link searches and
8 testified that some of the things -- the terms searched were items
9 that were similar to things on Prosecution Exhibit 110, correct?

10 A. That's correct.

11 ADC[CPT TOOMAN]: Okay. At this time I'd like to retrieve
12 Prosecution Exhibit 81 and ask the witness to move to the panel box.

13 MJ: All right.

14 Q. I'm handing the witness what's marked as Prosecution
15 Exhibit 81. Agent Mander, what I'd like to do is we're going to go
16 through this list and I'd like you to tell me whether or not there
17 are any searches in Prosecution Exhibit 81 that correspond with the
18 item on the list. Okay?

19 ATC[CPT MORROW]: Your Honor, the government will stipulate
20 that there are a number of searches for the information on this list.

21 MJ: What do you want him to do?

22 ADC[CPT TOOMAN]: Your Honor, the government highlighted I
23 think three instances where PFC Manning, or, rather, I should say,

1 computers associated with PFC Manning searched for terms that
2 correspond with items listed on this list.

3 MJ: And you want to go through all of the ones where -- that
4 don't correspond?

5 ADC[CPT TOOMAN]: Yes, ma'am.

6 MJ: And government you're willing to stipulate the those three
7 are the only ones that correspond?

8 ATC[CPT MORROW]: Yes, Your Honor.

9 MJ: All right. In light of that, do you need to continue?

10 ADC[CPT TOOMAN]: No, ma'am.

11 MJ: All right.

12 ADC[CPT TOOMAN]: I will retrieve Prosecution Exhibit 81 from
13 the witness. I'm handing that back to the government.

14 **Questions continued by the assistant defense counsel [CPT TOOMAN]:**

15 Q. Agent Mander, if you would please return to the witness
16 stand. I'm going to hand you Prosecution Exhibit 110 and I'd like
17 for you to count how many items are listed in that exhibit, please?

18 A. Could you define the word item?

19 Q. I'm sorry, under the United States. I think it starts on
20 Page 9.

21 A. **[Reviewing the exhibit.]** You say items there are bullets.

1 ADC[CPT TOOMAN]: Well, actually, I'll retrieve the witness --
2 or I'll retrieve the exhibit from the witness and I will publish this
3 if that's all right with Your Honor?

4 MJ: That's fine.

5 ADC[CPT TOOMAN]: Okay. I'm publishing Page 9 of Prosecution
6 Exhibit 110.

7 Q. So, Agent Mander, if you could please count the items on
8 under United States there?

9 A. Can you move it down a little bit?

10 Q. Sure. This way?

11 A. Yeah, that's fine.

12 Q. Okay.

13 A. When you say items, we're talking about the bullet items --

14 --

15 Q. Yes, the bullets, please.

16 A. ---- the subbullets? There are, one, two, three, four,
17 five, there are at least five things that I can see different
18 categories, I guess you could say.

19 Q. Okay. Well, let's go with important bulk databases. How
20 many items are listed under important bulk databases?

21 A. There are three categories of items.

22 Q. Okay. And the next is federal politics?

23 A. Correct.

1 Q. How many items are listed there?

2 A. There are one, two, six.

3 Q. Okay. And then next do you see Military Intelligence and
4 I'm going to move this up so we can see all of that subsection. And
5 if you could please count I think on here count each bullet and
6 subbullet, because it appears that subbullets -- would you agree with
7 me that the subbullets are different than the main bullet?

8 A. Sure, yes.

9 Q. Or unique in some way?

10 A. Yes.

11 Q. Okay. So, if you would count those bullets for me.

12 A. It appears to be 21 bullets there.

13 Q. Okay. And I'm now going to remove Prosecution Exhibit --
14 or Page 9 of the exhibit and put on Page 10 to the overhead. Can you
15 see that okay, Agent Mander?

16 A. Yes.

17 Q. Okay. If you would please count for me, we're still under
18 Military Intelligence. So we're continuing from 21.

19 A. Fifty-five excuse me 56.

20 Q. Fifty-six visible on the screen there?

21 A. Yes.

1 Q. And the last one you see just for the record is blueprints
2 and floor plans of all unmentioned facility in the federal relocation
3 arc including historical ones?

4 A. That's correct.

5 Q. So 54 to there under Military and Intelligence, correct?

6 A. Didn't I say 56?

7 Q. I'm sorry, 56. I'm now moving Page 10 up. How many under
8 banking?

9 A. There are two bulleted items.

10 Q. And one under environment?

11 A. That is correct.

12 Q. Two under media?

13 A. That is correct.

14 Q. And two under religion?

15 A. That is correct.

16 Q. Okay. I'm removing Page 10 and placing Page 11 on the
17 overhead and will continue with religion. How many more do we have
18 there?

19 A. There are six more on this page.

20 Q. Okay. I'm removing Page 11 and returning Prosecution
21 Exhibit 110 to the court reporter.

22 ADC[CPT TOOMAN]: No further questions, Your Honor.

23 MJ: All right. Redirect?

1 ATC[CPT MORROW]: No, Your Honor.

2 MJ: Temporary or permanent excusal?

3 ATC[CPT MORROW]: Temporary, Your Honor.

4 **[The witness was duly warned, temporarily excused, and withdrew from**
5 **the courtroom.]**

6 MJ: In the progression of your case is the next piece of it a
7 stipulation of expected of expected testimony or is it a witness?

8 TC[MAJ FEIN]: It's actually a witness that's sitting right out
9 here, ma'am, ready to go.

10 MJ: All right. A long or a short witness?

11 TC[MAJ FEIN]: United States thinks she's pretty short, ma'am,
12 it's Ms. Glenn.

13 MJ: Does either side have any objection to continuing?

14 CDC[MR. COOMBS]: No, Your Honor.

15 TC[MAJ FEIN]: Ma'am, the United States calls Ms. Shelia Glenn.

16 **SHELIA GLENN, civilian, was called as a witness for the prosecution,**
17 **was sworn and testified as follows:**

18 **DIRECT EXAMINATION**

19 **Questions by the assistant trial counsel [CPT OVERGAARD]:**

20 Q. And you are Shelia Glenn?

21 A. Yes, I am.

22 Q. You work at Fort Meade, Maryland?

23 A. Yes, I do.

- 1 Q. What unit do you work for at Fort Meade?
- 2 A. I work for Army Counterintelligence Center, 902nd MI Group.
- 3 Q. And what is the 902 MI Group do?
- 4 A. 902nd conducts counterintelligence activities to protect
- 5 classified information and technologies and to detect, identify
- 6 foreign threats against U.S. Army.
- 7 Q. And do you work for a particular subgroup under the 902nd?
- 8 A. Yes, I do. I work for Army Counterintelligence Center.
- 9 Q. Okay and what does the Army Counterintelligence Center do?
- 10 A. Army Counterintelligence Center produce timely, accurate,
- 11 comprehensive multi-discipline analysis to support combating
- 12 terrorism programs, ground system technologies, and investigation
- 13 operation activities.
- 14 Q. And do you work for a specific branch under the Army
- 15 Counterintelligence Center?
- 16 A. Yes, I do.
- 17 Q. What branch is that?
- 18 A. I work for Cyber Counterintelligence Assessment Branch.
- 19 Q. And what does the Cyber Counterintelligence Assessment
- 20 Branch do?
- 21 A. The Counter Cyber Intelligence Assessment Branch identifies
- 22 and performs analysis on cyber counterintelligence threats to the
- 23 United States Army.

1 Q. And what is your job at the Army -- at the Cyber
2 Counterintelligence Assessment Branch?

3 A. My job is a senior analysts and my job is to mentor junior
4 Soldiers and also to edit and review documents for content, accuracy,
5 and ----

6 Q. How many analysts do you have there?

7 A. We have five analysts that work under me.

8 Q. Okay. And how long have you been in that -- the senior
9 analyst position?

10 A. I've been there for 2 years.

11 Q. And how long have you been at the 902nd?

12 A. I've been at the 902nd since 2000.

13 Q. And what did you do before that?

14 A. I was in military for 20 years and I retired as Sergeant
15 First Class.

16 Q. What did you do in the military?

17 A. I spent 5 years as a Cryptographic Equipment Repair. 15
18 years as an Intelligence Analyst.

19 Q. What kind of intelligence analyst?

20 A. All source intelligence analyst.

21 Q. And what has been your focus at the 902nd? You said you're
22 under the Cyber Assessments Branch?

23 A. Ah, yes. My focus is cyber counterintelligence.

1 Q. Okay. And what does that mean?

2 A. That means that I look at the foreign cyber threat,
3 identify and assess that threat to the United States Army
4 technologies and programs.

5 Q. What sorts of -- you say you have five analysts that work
6 would under you?

7 A. Yes.

8 Q. What sorts of work product do the Cyber Analysts in the
9 Cyber CI Branch of ACIC produce?

10 A. The Cyber CI Analyst produces ACIC special reports,
11 counterintelligence notes, inputs to FISTUS [phonetic] and input the
12 MCDCIDUS [phonetic] cyber inputs.

13 Q. Okay. Can we just -- We'll just focus on the ACIC special
14 reports prepared by the Cyber CI Branch. Can you tell us how that
15 one is distinct from the other ones that you named?

16 A. The ACIC special report is a comprehensive document. It
17 uses I the full spectrum analysis and it uses predictive analysis.

18 Q. And are there different types of these special ACIC
19 reports?

20 A. Yes, there -- Basically we write ACIC special reports based
21 on requirements, request for information, or self-initiated.

22 Q. What's the purpose of this self-initiated Cyber CI special
23 report?

1 A. In a self-initiated report we identify potential threat to
2 U.S. Army and we inform the commander about that threat to their
3 organization.

4 MJ: Before you continue. You said there were three of them,
5 requirements, something else and?

6 WIT: Request for information.

7 MJ: Thank you.

8 Q. And just focusing in on the self-initiating Cyber CI
9 special reports, can you tell us how those are prepared?

10 A. Oh, yes. Our first analyst comes up with -- First the
11 analyst while they are doing their research they come across some
12 information that they think might be of a CI interest to the United
13 States Army. If it is, then they talk about it with their supervisor
14 and see if there's something that, you know, that the supervisor will
15 approve for them to go ahead and produce. So then an analysts lists
16 what they know and what they don't know about that event or
17 organization or whatever they're writing about. Okay once they look
18 at what they have and what they don't have, then they start doing
19 research. They do the research using classified and unclassified
20 reporting.

21 Q. Where do they conduct this research?

22 A. They conduct this research on classified systems, JWICS
23 SIPRNET and unclassified systems, open source.

1 Q. What kinds of things are they looking at when they are
2 conducting their research?

3 A. They're looking at -- They are looking at everything.
4 They're looking at HUMINT reporting, they're looking at SIGINT
5 reporting, they are looking at OSINT reporting, imagery reporting and
6 massive reporting.

7 Q. So after they -- After an analyst does this research,
8 what's the next step in creating this self-initiating special report
9 for Cyber CI?

10 A. Okay. Once they finish their research, then the analyst
11 will look at the order of the stuff they want to compile. So
12 basically build an outline and they put the information that they
13 collected within that outline and then they want to answer the
14 questions, you know, the who, what, why, where, and how, and then
15 they want to say what's next. They want to look at what's next and
16 they also look at the impact against U.S. Army interests and U.S.
17 interests.

18 Q. And then do they -- When do they start writing their
19 product?

20 A. After they collect all the information and put it in the
21 outline then they start writing the product.

22 Q. And after -- I guess what's the process then for writing
23 that product?

1 A. Okay. For writing the product you pull all intelligence
2 information together. You look at the impact. You group the
3 information and then you put it in a template. We have a template
4 for these reports. So, we put it in a template and make sure that
5 you can answer all the who, what, why, where, and what's next.

6 Q. And after that report is drafted, what happens to it?

7 A. After the report is drafted it goes to the senior analyst
8 who reviews it for content, accuracy, and grammar, and once the
9 senior analyst reviews it, then it goes out for coordination,
10 external coordination.

11 Q. I'm going to step back a little bit. What's the content
12 and accuracy verification? What does that entail?

13 A. Okay. When we look at it for content and accuracy, we're
14 making sure that information within the report is correct. We fact
15 check the sources that are used in the report to make sure that they
16 agree with the information within the report states and then we check
17 for grammar.

18 Q. And then you said you send it out for coordination?

19 A. Yes, we do.

20 Q. What does that mean?

21 A. When we send it out for coordination to external sources,
22 which means we send it to other intelligence agencies so they can

1 actually review the report to make sure that have the information
2 accurately.

3 Q. And what happens after the external coordination?

4 A. When we did get our results back from the external
5 coordination we check the comments that the organizations put within
6 the report and if we agree with the comments then we incorporate them
7 within the reports. If we disagree with the comments then we put
8 an alternative analysis statement within that report.

9 Q. Is that required?

10 A. Yes, it is.

11 Q. And what happens after the external coordination, what
12 happens to the product next?

13 A. External coordination of the product is reviewed by the
14 branch chief.

15 Q. It goes -- what, if anything new is added?

16 A. If anything new is added it goes back to the senior analyst
17 who reviews that information and then it goes to the branch chief.

18 Q. What happens -- What does a branch chief do?

19 A. The branch chief reviews the product again for content,
20 accuracy, and grammar.

21 Q. What happens after that?

22 A. After the product is reviewed by the branch chief then it
23 goes to the editors for them to review it.

1 Q. Again, for content and accuracy?

2 A. They review it for grammar and content.

3 Q. Okay.

4 A. I mean grammar and accuracy. They don't review it for
5 accuracy, they review it for grammar.

6 Q. Okay. So what happens after the editor is done?

7 A. Once the editors finish their job then it goes to the
8 director or deputy director to be review for content, accuracy, and
9 grammar.

10 ATC[CPT OVERGAARD]: Your Honor, I'm going to retrieve
11 Prosecution Exhibit 45 for Identification.

12 MJ: Yes?

13 ADC[CPT TOOMAN]: I'm just going to look at it, Your Honor.

14 MJ: Okay.

15 Q. I'm handing Prosecution Exhibit 45 for Identification to
16 the witness. Can you tell us what that is?

17 A. It's a ACIC special report.

18 Q. How do you know that?

19 A. Because it states on the top of the document ACIC special
20 report and it has a ACIC serial number on it.

21 Q. And you're familiar with those documents?

22 A. Yes, I am.

23 Q. How are you familiar with it?

- 1 A. We write them.
- 2 Q. Okay. Have you written them yourself?
- 3 A. Yes, I have.
- 4 Q. And what type of product is -- is that document or is that
- 5 report in particular?
- 6 A. This is a self-initiated document.
- 7 Q. And who wrote that product?
- 8 A. Mr. Mike Horvath.
- 9 Q. Who is Mike Horvath?
- 10 A. Mike Horvath was the senior analysis at the time.
- 11 Q. What was your involvement in creating that product?
- 12 A. Mike discussed the subject with me and I reviewed it for
- 13 content and grammar and accuracy.
- 14 Q. So you're familiar with the content?
- 15 A. I'm familiar with the content, yes.
- 16 Q. And why did you review the product?
- 17 A. Because we have a two review process within our
- 18 organization.
- 19 Q. Is this a product you reviewed in 2008?
- 20 A. Yes, it is.
- 21 Q. Is it different in any way?
- 22 A. Yes, it is.
- 23 Q. How is it different?

1 A. It's been declassified and it's missing the end notes.

2 Q. Is the content otherwise the same?

3 A. Yes, it is.

4 Q. And do you -- What happened to the product -- what happened

5 to this product in particular after it went through the process that

6 you discussed before?

7 A. It was posted to our website.

8 Q. Where is your website?

9 A. On SIPRNET and JWICS.

10 Q. Is that product still on the ACIC portal?

11 A. Yes, it is.

12 Q. How do you know that?

13 A. I checked it.

14 ATC[CPT OVERGAARD]: Your Honor, at this time the United States

15 moves to admit what has been marked as Prosecution Exhibit 45 for

16 Identification into evidence as Prosecution Exhibit 45.

17 ADC[CPT TOOMAN]: No objection, Your Honor.

18 MJ: May I see it, please? Prosecution Exhibit 45 for

19 Identification is admitted. Does the witness need the document back?

20 ATC[CPT OVERGAARD]: Yes, ma'am.

21 MJ: There you go.

22 ATC[CPT OVERGAARD]: Thank you.

23

1 Questions continued by the assistant trial counsel [CPT OVERGAARD]:

2 Q. Ms. Glenn, can you tell us the name of that product that I
3 handed you?

4 A. WikiLeaks.org a on-line reference to foreign intelligence
5 services, insurgents or terrorist groups.

6 Q. What is that letter and number combination under the title?

7 A. Underneath there is the production center, first four
8 digits, the second is the function code, the third is the serial
9 number, and the last two is the fiscal year.

10 Q. And under that what is the publication date of this
11 document?

12 A. 18 March 2008.

13 Q. And how about the information cutoff date?

14 A. 28th February 2008.

15 Q. Can you tell us what the information cutoff date means?

16 A. That's the last current reporting that's contained in this
17 report.

18 Q. What does it say under the publication date?

19 A. National security information, unauthorized disclosure
20 subject to criminal sanctions.

21 Q. What is the national security information?

22 A. Information that has been determined that it needs to be
23 protected from unauthorized release.

1 Q. What specific types of national security information are in
2 here?

3 A. Intelligence reports produced by originators.

4 Q. And you already us what the external coordination means,
5 but can you tell us what that line represents?

6 A. External coordination?

7 Q. Yes.

8 A. That's the organization that performed the external
9 coordination.

10 Q. Okay. So that's who it was sent to ----

11 A. Yes.

12 Q. ---- coordinate with? And how about that next line? Can
13 you tell us what that means?

14 A. Which one?

15 Q. The product response to Headquarters, Department of Army?

16 A. That's.

17 MJ: Is there at all a way to publish so that I can follow
18 along.

19 ATC[CPT OVERGAARD]: Yes, ma'am. I can publish the copy that I
20 have right here, ma'am.

21 **[There was a brief pause while the assistant trial counsel published
22 the exhibit to the Court.]**

1 Q. We're at the line I'm pointing to beginning with, 'this
2 product'. Can you just tell us again what that means?

3 A. That's the production requirement that was used to produce
4 this document, to authorize the production of this document.

5 Q. And then how about that last line on there that says, 'ACIC
6 production or product identification number'. What does that mean?

7 A. That's the ACIC serial number for this product.

8 Q. Okay. Does that serial number have any specific meaning?

9 A. The 'R' being -- designates ACIC. The '08' is the fiscal
10 year, and the serial number is the same as the one above, the serial
11 number. It's just a numerical order of the reports.

12 Q. Okay. So there's just assigned ----

13 A. One, two, three, four, five, six on up.

14 Q. And you mentioned before that you have templates for your
15 documents?

16 A. Yes, we do.

17 Q. What is the template for this document?

18 A. The template for this document is the title, purpose,
19 executive summary, key judgments background, discussion, conclusion
20 oh, Intel gaps, conclusion, and contact.

21 Q. Intel gaps and conclusions?

22 A. And point of contact.

23 Q. In 2008 that was the template you used?

1 A. Yes, in 2008 that was the template we used.

2 Q. Can you just tell us a little bit about how this -- this
3 self-initiated product was prepared, this specific product?

4 A. Mr. Horvath was doing research and came across
5 WikiLeaks.org and he thought it was a CI concern.

6 ADC[CPT TOOMAN]: Objection. This witness would have no
7 personal knowledge of what prompted Mr. Horvath to write this
8 document.

9 Q. Are you testifying to your personal knowledge?

10 A. Yes, I am, because I discussed this with Mr. Horvath during
11 that time frame.

12 ADC[CPT TOOMAN]: We would object based on hearsay, Your
13 Honor.

14 MJ: What's the relevance, or are you introducing it as hearsay
15 or not?

16 ATC[CPT OVERGAARD]: One moment please, ma'am. Ma'am, we'll
17 stick with her personal observation and not any discussions that were
18 had.

19 MJ: Objection, sustained.

20 Q. Can you tell us what specifically was done to create this
21 self-initiated product?

22 A. The steps?

1 Q. Yes. Did -- Yes, the steps that Mr. Horvath took and the
2 steps that you took in assisting him?

3 A. Mr. Horvath used the same procedures that I talked about
4 before.

5 Q. Okay.

6 A. I assisted in some research and in reviewing and editing
7 the document.

8 Q. And are these documents, are they usually 32 pages long?

9 A. The documents can be much smaller, five pages, or they can
10 be much larger, 150 pages.

11 Q. Okay. What's the average, I mean, what are they usually?

12 A. Average usually about 20 to 30 pages.

13 Q. And let's talk a little bit about the content of this
14 actual report. Do you know what the purpose of this document is?

15 A. Yes. The purpose of this document was to assess the
16 counterintelligence threat on the U.S. Army by WikiLeaks.org website.

17 Q. And according to the report and your knowledge of the
18 report, what is WikiLeaks?

19 A. WikiLeaks is an organization that exposes illegal activity.

20 ADC[CPT TOOMAN]: Objection, Your Honor.

21 MJ: Yes.

1 ADC[CPT TOOMAN]: I don't believe this witness is in a
2 position to determine the legality of the WikiLeaks' weekly conduct -
3 - the conduct of WikiLeaks.

4 ATC[CPT OVERGAARD]: Ma'am, She's testifying about what the
5 product actually says.

6 MJ: All right. I'm not taking her testimony to be a legal
7 opinion of whether something is legal or illegal. Why don't we take
8 it to what purports to be illegal activity. Go ahead.

9 ATC[CPT OVERGAARD]: Yes, ma'am. The purpose of testimony is
10 only to elicit what is actually in the document not what WikiLeaks is
11 or is not, but what is written in the document.

12 MJ: Go ahead.

13 **Questions continued by the assistant trial counsel [CPT OVERGAARD]:**

14 Q. So, can you tell us what WikiLeaks is according to this
15 report?

16 A. Okay. I would -- According to the report, it says, 'That
17 the intent of WikiLeaks website is to expose unethical practices,
18 illegal behavior, and wrongdoing within corrupt corporations and
19 governments'.

20 Q. And does the report comment on whether or not WikiLeaks is
21 a news organization?

22 A. Yes, it does.

23 Q. And what does it say?

1 A. It says that, 'WikiLeaks.org is not considered a news
2 organization'.

3 Q. And does it give some reasons for that?

4 A. Yes, it does. It says that, 'WikiLeaks does not vet their
5 sources. WikiLeaks does not provide overview. WikiLeaks does not
6 provide source checking or facts checking, and WikiLeaks does not
7 provide -- WikiLeaks does not confirm the accuracy of the
8 information'.

9 Q. Does it talk about how WikiLeaks releases information?

10 A. Yes, it does.

11 Q. What does it say about that?

12 A. It says, 'WikiLeaks.org uses anonymous methods to post the
13 information to the sites'. So, let me find it in here. It says,
14 'WikiLeaks.org uses its own coded and software combined with
15 WikiMedia, WikiOpen, as a self-free net tour, and PDC to make it
16 difficult for foreign governments, FIS, law enforcement agencies, and
17 foreign businesses to determine where a leak document originated from
18 and who was responsible for leaking the document'.

19 Q. Can you tell us what page you're looking at?

20 A. I'm looking at Page 5.

21 Q. What paragraph was that?

22 A. Paragraph 3.

1 Q. Does it talk about -- Does this product further talk about
2 what type of behavior, this anonymous releasing encourages?

3 A. Yes. The document says that, 'the anonymous behavior
4 encourages,' let me get the exact words. It says that, 'the
5 WikiLeaks.org is knowingly encouraging criminal activities such as
6 the theft of data, documents, proprietary information and
7 intellectual property. Possible violations of national security laws
8 regarding, sedition and espionage and possible violation of civil
9 laws within the United States and foreign countries. They allege
10 that whistle blowers are in effect willingly violating laws and
11 conditions of employment and thus may not qualify as whistle blowers
12 protected from the disciplinary action or retaliation from reporting
13 wrongdoing in countries that have such laws.' Page 20.

14 Q. Okay. What paragraph on Page 20 were you looking at?

15 A. Page 20, Paragraph 1.

16 Q. That one or that one?

17 A. That one.

18 Q. Okay. The top paragraph, the half paragraph?

19 A. Page 19 it starts.

20 Q. Okay. According to this what threat does WikiLeaks pose?

21 A. WikiLeaks propo -- WikiLeaks propose a force protection
22 Cyber Counter -- Cyber Intelligence, excuse me, not Cyber Intel --

1 force protection, counterintelligence, information security, and
2 operation security threat.

3 Q. And is that -- That's in the key judgments?

4 A. Yes, it is.

5 Q. And what else or what does the key judgment say about how
6 it does this, how WikiLeaks does this? Just looking at key judgments
7 on Page 3?

8 A. Okay. It says, 'Recent unauthorized release of DoD and
9 sensitive and classified information provided, FIS, foreign
10 terrorists groups and insurgents and other foreign adversaries with
11 potentially actionable information for targeting U.S. forces'.

12 Q. Does the report discuss any examples of information that
13 are posted on WikiLeaks?

14 A. Yes. This report has three examples.

15 Q. What were those three examples?

16 A. The first example was the release of tables of equipment
17 for troops deployed in Iraq and Afghanistan. The second example was
18 release of a standard operation procedures for Joint Task Force
19 Guantanamo. The third example was a classified document released
20 that is produced by National Ground Intelligence Center.

21 Q. What information in particular according to this report was
22 in the TO&E, the tables of equipment that you just mentioned?

23 A. The Report.

1 Q. Just in general what is in -- What was in the TO&Es?

2 A. The TO&E had a list of all equipments -- all equipment that
3 was deployed in Afghanistan and in Iraq.

4 Q. And did the products say anything about the dangers of
5 releasing that information?

6 A. Yes. It said that the products stated that, 'the release
7 of that information could allow foreign intelligence service
8 terrorist groups, Iraqi insurgents to conduct attacks against U.S.
9 Army forces in

10 ADC[CPT TOOMAN]: Objection. Relevance, Your Honor.

11 MJ: What is the relevance?

12 ATC[CPT OVERGAARD]: Ma'am, it's relevant to the accused's
13 knowledge.

14 MJ: All right. Overruled.

15 Q. All right. You can continue. Sorry.

16 A. The identification of vehicles, military vehicles, could be
17 used to select specific types and emplacements of improvised
18 explosive devices.

19 Q. And then you also mentioned that there was an NGIC report,
20 a National Ground Intelligence Report?

21 A. Yes, there is.

22 Q. What did that contain?

1 A. That report discussed asymmetrical warfare, tactic,
2 techniques, and procedures used against U.S.

3 Q. And what was -- What was the classification of that
4 document?

5 A. That document was classified Secret NOFORN.

6 Q. And that was also released by WikiLeaks?

7 A. Yes, it was.

8 Q. And according to the product what could be the impact to
9 the United States if that were released?

10 A. The impact would be insight into a successful asymmetric
11 warfare tactic, techniques and procedures, operation against U.S.
12 forces and coalition forces.

13 Q. And is this an intelligence product?

14 A. Yes, it is.

15 Q. And why is it an intelligence product?

16 A. Because it contains intelligence documents within it.

17 Q. Do other U.S. government entities rely on these
18 intelligence products?

19 A. Yes, they do.

20 Q. And was this product in particular used by other U.S.
21 government entities?

22 A. Yes, they were.

23 Q. How do you know that?

1 A. Because people have discussed it, feedback.

2 Q. Was this product ever released outside of SIPRNET?

3 A. No, it wasn't.

4 MJ: When you are saying, this product, are you talking about
5 the NGIC report or are you talking about the ACIC report?

6 ATC[CPT OVERGAARD]: I'm sorry, ma'am. I'm talking about this
7 report -- the ACIC report.

8 Q. Was this -- Was the 2008 version that you're familiar with
9 of the ACIC report ever released outside of SIPRNET?

10 A. To my knowledge it was only posted on SIPRNET and JWICS and
11 never released out of those two sites.

12 Q. Was it ever unofficially released?

13 A. To my knowledge, no, it wasn't.

14 Q. You're not familiar with this document being unofficially
15 released anywhere else?

16 A. Unofficially released?

17 Q. Not officially, unofficially so ----

18 A. Oh, okay. I'm sorry. I thought you said -- To my
19 knowledge, this document was never unofficially released.

20 Q. So ----

21 A. I mean never officially released. I'm sorry.

22 Q. Okay. Was it unofficially released though?

23 A. Yes. You've got me confused here?

1 Q. Do you know if this document was ever released?

2 A. No. To my knowledge, the document was never released.

3 Q. Even unofficially.

4 A. To my knowledge, this document was never un -- officially

5 released?

6 Q. Okay. Can you tell us -- can you tell us, according to the

7 conclusion of this document, what must be presumed about adversary --

8 yes, adversary access to WikiLeaks? I'm just looking at Page 21.

9 A. 'It must be presumed that WikiLeaks organization have or

10 will receive sensitive or classified documents in the future. It

11 must also be presumed that foreign adversaries will review and assess

12 any DoD or classified information posted on the WikiLeaks.org

13 website'.

14 Q. Thank you. Was this document ever posted on WikiLeaks?

15 A. Yes, it was.

16 Q. And how do you know that?

17 A. Because I was informed by an individual who saw on it

18 WikiLeaks.

19 ADC[CPT TOOMAN]: Objection?

20 MJ: Okay.

21 Q. Do you have firsthand knowledge?

22 MJ: Sustained.

23 ATC[CPT OVERGAARD]: Sorry, ma'am.

1 Q. Do you have firsthand knowledge of that?

2 A. Yes, I do.

3 Q. And what is your firsthand knowledge of that?

4 A. I received a phone call from

5 MJ: Sustained.

6 Q. Did you see the product?

7 A. It was e-mailed to me.

8 Q. Okay. And it was from WikiLeaks?

9 A. It was e-mailed to me from somebody who took it off of the

10 WikiLeaks.

11 Q. And how do you know that? What did it look like?

12 A. It looked like the exact same document that was posted to

13 our website.

14 Q. Did it have anything -- any particular identifying marks on

15 it that made you think it was from WikiLeaks?

16 A. No, not the document that I received.

17 Q. Okay.

18 A. But I received it on an unclassified system.

19 Q. Okay. Thank you.

20 MJ: Cross?

21 ADC [CPT TOOMAN]: Yes, ma'am.

22

23

1

CROSS-EXAMINATION

2 Questions by the assistant defense counsel [CPT TOOMAN]:

3 Q. Good evening, Ms. Glenn.

4 A. Good evening.

5 Q. I'm going to retrieve that exhibit from you, Prosecution
6 Exhibit 45. Thank you.

7 ADC[CPT TOOMAN]: Ma'am, I'm going to publish this.

8 MJ: Go ahead.

9 ADC[CPT TOOMAN]: I'm now publishing Page 1 of Prosecution
10 Exhibit 45.

11 Q. Ms. Glenn, my first question for your is: You talked on
12 direct about the title of this document, correct?

13 A. Yes.

14 Q. And you read it to the Court. Would you agree that the
15 title of this document actually has a question mark at the end?

16 A. Yes, it does.

17 Q. Okay. And so that would suggest, would you agree, that we
18 don't know the answer to that question or this document is going to
19 set out to answer that question? Would you agree with that?

20 A. Could you repeat the question?

21 Q. Sure. You would agree that based on the title, this
22 document, that is a question, that is we don't know whether foreign
23 intelligence services, insurgents, or terrorist groups use WikiLeaks

1 as an on-line reference. Would you agree with that? The question
2 mark would suggest that we don't know. Do you agree with that?

3 A. The question mark suggest that we can't confirm it.

4 Q. Okay. And so ----

5 A. Not that we don't know, but we can't confirm it.

6 Q. Okay. We can confirm it. Okay. If we could confirm it
7 there wouldn't be a question mark there, correct?

8 A. At that time, yes.

9 Q. I'm sorry? So if there were no question mark there you
10 would agree with me that that would suggest that foreign intelligence
11 service, insurgents, and terrorist groups are using WikiLeaks as an
12 on-line reference?

13 A. During that timeframe we couldn't confirm it.

14 Q. Okay. Now I'm going to remove Page 1 from the overhead and
15 place Page 2. You talked on direct about the stated purpose of
16 WikiLeaks, and I would direct your attention to the second paragraph
17 from the bottom which is the one denoted by the 'U' the unclassified
18 paragraphs there. Do you see that?

19 A. Yes.

20 Q. You would agree with me that the stated intent of WikiLeaks
21 is to expose unethical practices, illegal behavior, and wrongdoing
22 within corrupt organizations or corporations, and oppressive regimes
23 throughout the world. Is that accurate?

1 A. That was the stated intent.

2 Q. Okay. It doesn't -- The stated intent is to not to assist
3 foreign militaries, correct?

4 A. I can't make that determination.

5 Q. Okay. Well, that wasn't stated, you would agree with that,
6 correct?

7 A. That's not stated within the document, yes.

8 Q. Okay. Now, continuing to talk and I've removed Page 2 from
9 the overhead. I'm going now to place Page 6 on. Continuing to talk
10 about the stated purpose of WikiLeaks. I want to direct your
11 attention to the first full paragraph there, the one with the 'U' in
12 parenthesis, starts 'WikiLeaks.org'. Go ahead and read that first --
13 first paragraph there for me. I'll point to that paragraph here with
14 my pen.

15 A. 'WikiLeaks.org' ----

16 Q. Just read it to yourself, ma'am, I'm sorry?

17 A. Oh, okay. **[The witness reviewed the portion of the exhibit**
18 **as directed.]** Okay.

19 Q. Ma'am, based on this report would you agree with me that
20 one of the purposes or the goals of WikiLeaks is a free and
21 unrestrained press? Would you agree with that ma'am?

22 A. Based on this statement, yes.

1 Q. Removing Page 6. Ma'am, I'd like to talk now a little bit
2 about how these documents are created. Okay? Now, you talked about
3 a few different ways in which one of these products could be
4 initiated. You talked about it could be self-initiated, correct, and
5 that's what happened in this case?

6 A. Uh, huh [**indicating an affirmative response**].

7 Q. I'll just ask you to say your answer out loud for the
8 purpose of the court reporter.

9 A. Yes.

10 Q. Okay. Thank you. Another way would be through an RFI,
11 correct?

12 A. Request for information, yes.

13 Q. Okay. Could you explain what this is, please?

14 A. That's when a command sends us through e-mail or a request
15 for information on a particular item and then we would research it
16 and produce a product off of it.

17 Q. So if there were requests for information, and there wasn't
18 a request for information in this case, correct?

19 A. No, this is self-initiated.

20 Q. So no unit came to ACIC and said, hey, we think that maybe
21 WikiLeaks is using, or the enemy is using WikiLeaks, we'd like you to
22 look into it, correct, that didn't happen?

23 A. No. No request for information.

1 Q. Okay. And you mentioned a third way in which one of these
2 documents would be initiated. What was that, ma'am?

3 A. A requirements.

4 Q. Okay. And could you explain what that means?

5 A. That's through our production system. A customer will put
6 in a request for assessment and then we will perform that assessment
7 based on their request.

8 Q. So if someone had said, hey, we think that maybe WikiLeaks
9 is getting used by the enemy, they could have used that process in
10 order to have this product produced. Is that correct?

11 A. Yes, they could have.

12 Q. Okay. And that didn't happen here, correct?

13 A. No, it didn't.

14 Q. Okay. Now, I'd liked to speak now about sort of the
15 process through which this is created. Once it's been initiated here
16 we had self-initiation and then you talked about all the research
17 that goes into it, right?

18 A. Yes.

19 Q. And I think you talked about in this case it would be Mr.
20 Horvath or whoever drafted the document would have looked at JWICS.
21 Is that correct?

22 A. Yes.

1 Q. So Mr. Horvath would have looked at JWICS and he would have
2 been looking for any sort of intelligence that would have helped
3 answer the question posed by this paper?

4 A. He would use that, but that wouldn't be the only source
5 that he would use.

6 Q. Sure, okay. Within JWICS, you would agree that JWICS is
7 where the United States Government keeps Top Secret information,
8 correct?

9 A. There's other information on JWICS. It's not only Top
10 Secret.

11 Q. Sure, thank you. So, you would have not only Top Secret
12 information on JWICS, but other information as well?

13 A. Yes.

14 Q. There's a lot of information on JWICS?

15 A. Yes.

16 Q. You've got the SIPRNET and that includes Secret and down,
17 correct? And then JWICS is higher. So there's even more on JWICS?

18 A. Yes.

19 Q. Okay. And you talked about a number of INTs that would
20 have been referenced when producing this document?

21 A. Yes.

22 Q. There was HUMINT?

23 A. Yes.

1 Q. SIGINT?

2 A. Yes.

3 Q. OSINT?

4 A. Yes.

5 Q. MASINT?

6 A. Yes.

7 Q. Did I miss any?

8 A. IMINT.

9 Q. IMINT, okay. So all of those INTS would have been looked
10 at by the individual who drafted this document?

11 A. Yes.

12 Q. Pretty much the author of this document had just about all
13 of the United States Government's intelligence at their fingertips.
14 Is that fair to say, with some very limited exceptions, they were
15 looking at just about everything?

16 A. Yes. They was [sic] looking at just about everything, yes.

17 Q. Now, so the individual who drafted the document would have
18 looked at all of this information and they incorporated that into
19 their document?

20 A. If they found something.

21 Q. Sure. If they found something, if they found a source they
22 would have noted it in this document and then after the document was
23 written it would have gone out for external coordination, correct?

1 A. Yes.

2 Q. Okay. And in this case Mr. Horvath looked at all of this
3 information, all of JWICS, all the INTS and then he sent it out to
4 the National Ground Intelligence Center, correct?

5 A. Yes.

6 Q. And they scrubbed it as well?

7 A. Yes.

8 Q. And so if they would have had any intelligence that maybe
9 Mr. Horvath missed or maybe didn't have access to they could have
10 added it on this document, correct?

11 A. Yes.

12 Q. And so this external coordination is a process through
13 which we can make sure we have as much intelligence as possible in
14 forming this paper, correct?

15 A. Yes.

16 Q. Now, I want to talk about the document itself. Through the
17 document there are footnotes, correct?

18 A. There are end notes.

19 Q. End notes, okay, I'm sorry. End notes. And what is the
20 purpose of an end note?

21 A. The purpose of the end note is to list where you acquired
22 the information from.

23 Q. So it's the source, is that accurate?

1 A. Yes, it's the source.

2 Q. So if there was an intelligence report that said Captain
3 Tooman eats too many cookies. There would be an end note and then
4 someone would have -- you'd have the source of that information?

5 A. Yes.

6 Q. And it might be my mother or someone else, right?

7 A. Yes.

8 Q. That's how an end note would work?

9 A. Yes.

10 Q. Now, I want to -- I'm going to publish Page 11. I'll
11 direct your attention to sort of the middle of the paragraph here we
12 have a paragraph that was Secret NOFORN, it's been lined through. It
13 starts, 'Intelligence indicates that insurgents'. Right here. Do
14 you see that?

15 A. Yes.

16 Q. That says intelligence indicates that insurgents in
17 Afghanistan have recovered several Warlock systems and then we have
18 an end note. And we have the unclassified version of this document,
19 but if we were looking at the classified version we can go to Number
20 22 the at the back and we can see the source of that information,
21 correct?

22 A. Yes.

1 Q. And we would know from looking at that classified document,
2 how we know that insurgents in Afghanistan have recovered several
3 Warlock systems?

4 A. Yes.

5 Q. That would be some intelligence that was gathered from the
6 JWICS system or from some other source that the author referenced?

7 A. Yes.

8 Q. Or it could have been something that the external
9 coordination added to the document as well, correct?

10 A. Yes.

11 Q. Okay. I'm going to remove Page 11. Now, would you agree
12 with me that this document, there are over 50 end notes?

13 A. I'm not exactly sure how many end notes was in the
14 document. I can't remember.

15 Q. Okay. I'm going to hand the witness what's been marked as
16 Prosecution Exhibit 45. If you would please, ma'am, just take a look
17 at that and just let us know how many end notes there are?

18 A. Fifty-five end notes.

19 Q. I'm going to retrieve the exhibit from the witness. So
20 within this document there are facts or pieces of intelligence that
21 we -- the government had verified? That's how we know it, correct?

22 A. There's 55 pieces of information of end notes that list
23 sources.

1 Q. Would you agree with me that if we had a source for
2 something it would be listed?

3 A. If there was a source for something in that document, if
4 the analyst found it, it would be listed; but that does not mean that
5 the analyst did not find all the sources.

6 Q. Okay.

7 MJ: Wait a minute. That does not mean that the analyst did not
8 find all the sources? I don't understand that.

9 WIT: Okay. So let's say an analyst is writing product and some
10 sources have not been published yet. So, therefore, that analyst
11 when he wrote that product would not have all of the sources for that
12 document, but he will write the documents based on the sources that
13 he has available.

14 Q. So there might be some intelligence out there that he just
15 hasn't seen yet?

16 A. Yes.

17 Q. Okay. And he wouldn't -- he wouldn't obviously incorporate
18 that into the document?

19 A. No, because he has not seen it?

20 Q. It would be impossible to incorporate it?

21 A. Yes.

22 Q. Okay. Thank you. Now, ma'am, I'm going to publish Page 20
23 and I'd like to focus on the one of the areas in the template called

1 intelligence gaps. Ma'am, you would agree with me that an
2 intelligence gap is something that we don't know, correct?

3 A. Not always.

4 Q. Not always, okay. You would agree with me that it's
5 something that we -- a gap is there's something missing, correct?

6 A. Not always.

7 Q. What is a gap?

8 A. Sometimes a gap could be information that we cannot
9 confirm.

10 Q. Okay.

11 A. We know it, but we can't confirm that it's actually true.

12 Q. Okay. And you would agree with me that in cases where you
13 know something you would cite it, correct, you would cite a source
14 for it? If you know it you cite the source for it, correct?

15 A. If the source can confirm it -- we can know something but
16 we can't confirm it. So we cannot put it in the document because
17 it's not -- it's not corroborated.

18 Q. When you say you can't confirm it, you mean you don't
19 really know, you can't say for sure that you know this?

20 A. I can't say for sure that I know it.

21 Q. Okay, and if you had even any sort of source or
22 intelligence you would have -- would you cite that in the document,

1 correct? You wouldn't have a source for something and then just
2 leave that source out, right?

3 A. If I can't confirm the source, yes, I would leave it out.

4 Q. Because you can't confirm it?

5 A. That's correct.

6 Q. You don't know for sure?

7 A. Not necessarily that I don't know for sure. I cannot not
8 confirm the source is accurate.

9 Q. Okay. Well, if you knew for sure, you would put the source
10 in there, right?

11 A. If the source is verified, yes, I would put the information
12 in there.

13 Q. Okay. Now, I want to talk about these intelligence gaps.
14 I'd like to direct your attention to the third one. You'd agree with
15 me that this says, 'Would the WikiLeaks.org website be used by FISS',
16 that's Foreign Intelligence Services. Is that correct?

17 A. Yes.

18 Q. Foreign military services, foreign insurgents, or
19 terrorists groups to collect sensitive or classified or U.S. Army
20 information posted to the WikiLeaks.org website. That's listed as an
21 intelligence gap, correct?

22 A. Yes.

23 Q. So that's something you can't confirm?

1 A. No, we can't confirm that.

2 Q. And would you agree with me that there is no end note at
3 the end of that intelligence gap, correct?

4 A. Intelligence gaps we don't put end notes on intelligence
5 gaps.

6 Q. Because you don't have sources for them?

7 A. They're gaps.

8 Q. There is not an end note, but there is a question mark,
9 correct?

10 A. Yes, there is.

11 Q. Again, a question mark would indicate that it's something
12 that we are looking for the answer to, right?

13 A. Something we can't confirm the answer to.

14 Q. Okay. If we had the answer, it wouldn't be in the
15 intelligence gap section, correct?

16 A. If we can't confirm it then we put it in the intelligence
17 gaps.

18 ADC[CPT TOOMAN]: Your Honor, I have no further questions.

19 I'm going to remove Page 20 of Prosecution Exhibit 45 and return that
20 to the court reporter. Thank you, ma'am.

21 MJ: Redirect?

22 ATC[CPT OVERGAARD]: Yes, ma'am, just one moment, please.

23

1

REDIRECT EXAMINATION

2 **Questions by the assistant trial counsel [CPT OVERGAARD]:**

3 Q. Hi, Mrs. Glenn. So you started explaining about
4 intelligence gaps a little bit when defense asked you about it, but I
5 want to hear in your own words what is an intelligence gap?

6 A. That is easier if I give you an example.

7 Q. Okay.

8 A. Let's say I look at an organization. I know the
9 organization name. I know that organization has five branches. I
10 know four of the branch names, but the fifth branch I'm not exactly
11 sure what the name is. I have an idea of what it could possibly be
12 based on their structure, but I cannot confirm if that's the actual
13 name. That's an example, one example of an intel gap.

14 Q. Okay. Well, how about -- how about using the example that
15 defense pointed out. What can be confirmed, or can you explain why
16 that's an intelligence gap, what's confirmed and what needs
17 verification? How does that work?

18 A. In this particular example we know that intelligence
19 organization and terrorist groups perform open source collection,
20 but we cannot confirm if they actually visit that site and looked at
21 the information.

22 ATC[CPT OVERGAARD]: Just one moment, please.

1 [There was a brief pause while the assistant trial counsel consulted
2 with the trial counsel.]

3 Q. And then after the intelligence gaps, again, what does the
4 conclusion say starting with 'in addition'?

5 A. It says, 'in addition, it must also be presumed that
6 foreign intelligence' -- 'foreign adversaries will review and assess
7 any DoD sensitive or classified information posted to the
8 WikiLeaks.org website'.

9 ATC [CPT OVERGAARD]: Thank you.

10 MJ: And you are standing up because you want a final recross?

11 ADC[CPT TOOMAN]: Yes, ma'am.

12 MJ: All right. And I will give the government redirect there
13 too. Go ahead.

14 ADC[CPT TOOMAN]: Thank you, Your Honor.

15 **RECROSS-EXAMINATION**

16 **Questions by the assistant defense counsel [CPT TOOMAN]:**

17 Q. Now, ma'am, you said that an intelligence gap would be
18 something that we can't confirm. You would agree that an
19 intelligence gap would -- could also be something we have no idea
20 about?

21 A. It could be.

22 Q. It could be. Okay. And you talked just now about
23 presuming something. How do you define presume, ma'am?

1 A. How do I define presume?

2 Q. Uh, huh [**indicating an affirmative response**].

3 A. That quote was based on historical analysis of what foreign
4 intelligence services and terrorist organizations do. So, we know
5 they conduct open source intelligence and we know that they are
6 interested in classified and sensitive U.S. Government information.
7 So based on what we know they do, we presume that they will visit
8 that site if that information is posted there.

9 Q. But you have no intelligence that the enemy or those groups
10 have ever gone to WikiLeaks.org?

11 A. At that time -- during that timeframe we could not confirm
12 it.

13 Q. And you also couldn't say if they were going to go there in
14 the future?

15 A. We know that they do open source research. We know they
16 have certain key words they use to search with, and we know if this
17 classified or sensitive government information, that information will
18 be reviewed and assessed.

19 Q. And you presume that? You ----

20 A. We know that they visit websites.

21 Q. You know they visit websites ----

22 A. And collect information.

23 Q. ---- but you don't know they visit WikiLeaks?

1 A. We cannot confirm that they didn't visit WikiLeaks.
2 Q. You have no intelligence that suggests that they have ever
3 been to WikiLeaks at that time?

4 A. We couldn't confirm it at that time that they visited
5 WikiLeaks.

6 Q. And if you would, ma'am, please, you've explained that
7 conclusion, but what does just the word presume, what does that mean
8 to you, ma'am?

9 A. Presume?

10 Q. Presume.

11 A. Presume to me means that we will -- presume means that we
12 think that they will visit that website.

13 ADC[CPT TOOMAN]: Okay. Thank you, ma'am.

14 MJ: Any final redirect?

15 ATC[CPT OVERGAARD]: Yes, ma'am.

16 MJ: And this is final.

17 ATC [CPT OVERGAARD]: Re-re-redirect, yes, ma'am, thank you.

18 **REDIRECT EXAMINATION**

19 Q. All right. You said on cross you could not confirm enemies
20 saw WikiLeaks in 2008?

21 A. In 2008 we could not.

22 Q. How about in 2009?

23 A. In 2009, we could not.

1 Q. And how about in 2010?

2 A. In 2010, we could.

3 ATC[CPT OVERGAARD]: Thank you.

4 MJ: I just have one question for you too.

5 WIT: Yes, ma'am.

6 **EXAMINATION BY THE COURT-MARTIAL**

7 **Questions by the military judge:**

8 Q. You talked about the three different ways that reports are
9 generated.

10 A. Yes.

11 Q. The self-initiate have had versus the RFI versus the, I
12 forgot what you called it.

13 A. Induction requirement.

14 Q. Okay. In terms of frequency, how frequently are self-
15 initiated reports generated versus the other two? Are they unusual?

16 A. No, they're not. They're common. Self-initiated -- based
17 on our mission statement we identify, you know, threats to the United
18 States Army counterintelligence threats to the United States Army.
19 So we are always looking for threats to the United States Army. So
20 self-initiate the products are produced often within our
21 organization.

22 MJ: Any follow-up questions based on mine?

23 ATC[CPT OVERGAARD]: No, ma'am.

1 ADC[CPT TOOMAN]: No, ma'am.

2 MJ: Temporary or permanent excusal?

3 ATC[CPT OVERGAARD]: Temporary, ma'am.

4 **[The witness was temporarily excused, duly warned, and withdrew from**
5 **the courtroom.]**

6 MJ: Is there any further evidence either side want to put on
7 the today?

8 TC[MAJ FEIN]: No, ma'am.

9 MJ: All right. Before we -- oh, yes?

10 CDC[MR. COOMBS]: No, Your Honor.

11 MJ: Before we recess the Court I do want to go over a timeline
12 for deciding today's issues on objections for Prosecution Exhibits
13 31, 32, and 109. I would like the parties to put in writing,
14 Government, what's the relevance of these what hearsay, non-hearsay
15 purpose. Defense, I mean, we sort of put the issue -- we've teed the
16 issue up if you will, on the table. I'm not going to have the
17 government file first and then you file next. I think you have the
18 gist of what they're bringing in. You can have an oral argument if
19 they create something knew, then we can address it there.

20 I understand we've had a busy week and you all are bringing
21 in witnesses and doing that. If we take a little bit of time to file
22 these briefs and for me to rule, are these exhibits going to be

1 introduced with any other witnesses that are coming in tomorrow or
2 the next day?

3 ATC[CPT MORROW]: No, Your Honor.

4 MJ: All right. So, what's the window of time then that we're
5 looking at before we have to have that issue resolved?

6 ATC[CPT MORROW]: I believe the end of the week, you know, is
7 probably sufficient to get this resolved.

8 MJ: Okay. What is a reasonable timeline in light of your
9 schedules with witnesses and preparation and getting everybody here
10 without delaying the proceedings to be able to come up with these
11 filings?

12 TC[MAJ FEIN]: Your Honor, the United States would offer 3 days.
13 We'll have it by COB on Thursday.

14 MJ: So, you are going to have this on COB on Friday, and you
15 want me to rule by the end of the week.

16 TC[MAJ FEIN]: COB Thursday.

17 MJ: COB Thursday and you want me to rule Friday morning?

18 TC[MAJ FEIN]: Very short and concise, brief. We can go
19 earlier, ma'am.

20 MJ: How about COB Wednesday.

21 TC[MAJ FEIN]: Yes, ma'am.

22 MJ: Can you do that?

1 CDC[MR. COOMBS]: We are at a disadvantage because all of us
2 are in court. The government has other counsel that can prep this.
3 MJ: If you get it to me by the end of the week and I rule on
4 Monday, will that work?

5 CDC[MR. COOMBS]: That can work, ma'am.

6 ATC[CPT MORROW]: Yes, ma'am, when I said the end of the week,
7 Your Honor, I actually meant that I thought that it could be
8 submitted by the end of the week and then ruled on ----

9 MJ: The following week?

10 ATC[CPT MORROW]: Yes.

11 MJ: So we submit it on COB on Thursday. Does that work? That
12 way if there's any issues we can address it on it Friday? Or are you
13 looking at COB Friday?

14 CDC[MR. COOMBS]: We were looking at COB Friday, ma'am.

15 TC[MAJ FEIN]: Friday, ma'am.

16 MJ: Or are you looking at COB Saturday?

17 TC[MAJ FEIN]: Friday works, ma'am.

18 CDC[MR. COOMBS]: If you are giving me Saturday, I'll take
19 Saturday, ma'am. One moment, Your Honor,

20 TC[MAJ FEIN]: Saturday is fine as well, ma'am.

21 MJ: All right. We'll go COB Saturday. I will rule the
22 following week. What I would ask though is you identify authorities
23 to me that you know of. Can you get me the copies of whatever

1 authorities you have that are germane to this issue so I could at
2 least look at those earlier?

3 CDC[MR. COOMBS]: Yes, ma'am. I'll get those to you tonight.

4 MJ: All right. Government, same thing if you know of any
5 authorities that support your case, get them to me as soon as you can
6 and I'll expect your briefs then on Saturday and will rule next week.

7 TC[MAJ FEIN]: Yes, ma'am.

8 ADC[CPT TOOMAN]: Ma'am, I'm sorry. Would you like hard copy
9 or e-mail, or electronic, what's your preference?

10 MJ: I would like both.

11 ADC[CPT TOOMAN]: Happy to do it, ma'am.

12 MJ: Thank you. Is there anything else we need to address
13 today?

14 TC[MAJ FEIN]: No, ma'am.

15 CDC[MR. COOMBS]: Nothing from the defense, Your Honor.

16 MJ: Start same time tomorrow.

17 CDC[MR. COOMBS]: Yes, ma'am.

18 ATC[CPT MORROW]: With -- I just want clarification, with
19 respect to that authority are you speaking specifically to the
20 Internet archive or Twitter.

21 MJ: No. I'm speaking legal authority. They cited to me cases.

22

1 ATC[CPT MORROW]: Yes, related to the Internet archive,
2 related to the authentication of the information of the Internet
3 archive.

4 MJ: If you have any authority that is germane to this motion or
5 any of the three objections. I believe they were hearsay,
6 authentication, and relevance that you want me to -- or that you
7 already have that you want me to consider, I would appreciate it in
8 advance. More time is always better for me.

9 ATC[CPT MORROW]: Yes, ma'am.

10 MJ: All right. Is there anything else we need to address?

11 ADC [CPT TOOMAN]: No, ma'am.

12 TC[MAJ FEIN]: No, ma'am.

13 MJ: The Court is in recess.

14 **[The court-martial recessed at 1656, 10 June 2013.]**

1 [The court-martial was called to order at 0935, 11 June 2013.]

2 MJ: Court is called to order. Major Fein, please account for
3 the parties.

4 TC[MAJ FEIN]: Yes, ma'am. Your Honor, all parties when the
5 Court last recessed are again present, with the following exceptions:
6 Captain Overgaard and Captain Morrow are absent. Captain von Elten
7 is present.

8 MJ: Is the Government -- Well are there any issues we need to
9 address before we proceed?

10 TC[MAJ FEIN]: Yes, ma'am. A few admin issues. First, this
11 morning United States filed what's been marked as Appellate Exhibit
12 566, the witness list order and proposed PEs, for the prosecution
13 witnesses. That's an updated listing from the previous.

14 MJ: All right. Thank you.

15 TC[MAJ FEIN]: Also, ma'am, as of 0930 this morning there are 11
16 members of the media at the media operations center. There are two
17 stenographers. There's no one presently in the trailer, although the
18 trailer is available and the courtroom is not filled to capacity.

19 MJ: All right. Thank you very much.

20 CDC[MR. COOMBS]: Ma'am, I would like to put on the record
21 that the government has indicated pretty much from this day forward
22 they'll accommodate the request of the stenographers to have one come
23 in the morning, one come in the afternoon session, and that also the

1 stenographers will be given a dedicated pass for the media operations
2 center.

3 MJ: Is that correct?

4 TC[MAJ FEIN]: Yes, ma'am. But also, the United States'
5 understanding is that the Court -- or the Court's preference or
6 directive is that one of the 70 spots for the media will actually
7 become 69 spots and a stenographer will be the 70th spot, so it will
8 actually not be a media spot, it will be the stenographer position.
9 That way the Public Affairs will credential off 69 positions, not 70.

10 MJ: That is actually what I did direct you to do. Any
11 objection to that?

12 CDC[MR. COOMBS]: No objection, Your Honor.

13 MJ: All right. Anything else we need to address?

14 CDC[MR. COOMBS]: No, Your Honor.

15 TC[MAJ FEIN]: No, ma'am.

16 MJ: All right. Please call your next witness.

17 TC[MAJ FEIN]: Ma'am, prior to that we're going to read two
18 stipulations.

19 MJ: Can you tell me who those are?

20 TC[MAJ FEIN]: Yes, ma'am. Ma'am, the first stipulation is Mr.
21 Peter Artale, Prosecution Exhibit 70. The next is Mr. Sean
22 Chamberlin, Prosecution Exhibit 71.

23 MJ: Thank you.

1 TC[MAJ FEIN]: Your Honor, Stipulation of Expected Testimony of
2 Mr. Peter Artale, dated 9 June 3013. It is hereby agreed by the
3 Accused, Defense Counsel, and Trial Counsel, that if Mr. Peter.
4 Artale were present to testify during the merits and pre-sentencing
5 phases of this court-martial, he would testify substantially as
6 follows:

7 I am currently employed by the Army Counter-Intelligence
8 Center, ACIC, with the 902nd Military Intelligence Group on Fort
9 Meade, Maryland. ACIC produces finished intelligence products for
10 the Intelligence community. It often produces these products by
11 fulfilling requests for information from the Army. It takes finished
12 products and disseminates them on SIPRNET and JWICS. I am a Web
13 Developer and the Team Lead of a team of three software developers.
14 I have worked in this capacity and for ACIC for 8 years. Prior to
15 this position, I worked in web development for the Defense
16 Intelligence Agency, DIA, for 1 year, then with Booz Allen for a 1-
17 year contract with National Geo-Spatial Agency. I was a Software
18 Development Engineer and Programmer in the Air Force for 21 years. I
19 retired from the Air Force as a Master Sergeant. I also have an
20 Associate's degree in Computer Science.

21 I first became involved in this case on approximately 17
22 March 2010, after my Branch Chief, Ms. Jessica Johnson, alerted me to
23 the compromise of U.S. Government information. Ms. Johnson asked if

1 I could use our system to see who had viewed a certain product. I
2 could, as I had developed custom software to track access two
3 particular products. This software captures the viewer credentials
4 by recording the Internet Protocol (IP) address and date/time of
5 access for each user who views our ACIC work product. It then
6 assigns a unique report key to the access event. This occurred
7 before we were contacted by law enforcement in this case, as ACIC was
8 notified of the compromise of one of our products in March 2010.

9 An IP address is part of the Transmission Control
10 Protocol/Internet Protocol (TCP/IP). A protocol is the standard
11 language used to communicate over a network. TCP/IP is the most
12 common "language" that computers use to communicate over the Internet
13 and so an IP address is the method of identifying a specific computer
14 on a network. Only one computer can be assigned a specific IP
15 address at one time. Knowing an IP address allows us to know which
16 computer on a given network used our products. Our software is a
17 custom product which, in capturing this user and access information,
18 produces metrics which can be used to see which of our products are
19 most popular and how our products are used. The software only logged
20 views of the document in the ".asp" format which is the standard way
21 the product would appear on the website. ".asp" is a common file
22 format for web pages. This means that the software only logged views
23 of the web version of the document and not the views of the ".pdf" or

1 ".doc" versions of the document. Likewise, the logs do not indicate
2 whether the document was printed or saved, nor do they indicate how
3 long an individual looked at the document, if at all. We collect
4 this data normally so we can analyze it to see where we need to
5 allocate our development and maintenance resource -- resources to
6 best support our internal and external customers. The information
7 produced by the tracking software is, therefore, called metrics.

8 The metrics are pulled when an engineer runs a certain
9 query. These queries can be customized to pull only the information
10 the developer wants to see. In this case, we were specifically
11 interested in tracking every access to a product called -- excused
12 me, titled "WikiLeaks.org-An Online Reference to Foreign Intelligence
13 Services, Insurgents, or Terrorists Groups." Therefore, I searched
14 the product by determining and searching for its product
15 identification number, which is "RB08-0617". The product
16 identification number, which is on the document itself and assigned
17 internally by ACIC, is a identifier unique to each ACIC product.

18 This ACIC product "WikiLeaks.org An Online Reference to
19 Foreign Intelligence Services, Insurgents, or Terrorists Groups" is
20 housed on our website at "acic.north-inscom.army.smil.mil" and is
21 accessible only via a classified network, such as SIPRNET. I wrote a
22 custom query, by IP address and visit time, to see every time this
23 particular document wrote, or was pulled from the web server. A

1 custom query is a method of pulling information from a database. I
2 pulled these metrics from my own workstation. The data is
3 automatically pulled into a Structured Query Language (SQL) table.
4 SQL is a computer language for extracting and inserting information
5 in a database. It is a standard computer language to interact with
6 databases. Printouts of SQL queries look like an Excel spreadsheet
7 in that it has columns and rows; however, it is not as easy to search
8 and organize as an Excel spreadsheet. I, therefore, digitally cut
9 and pasted the information from the SQL table into an Excel
10 spreadsheet and saved the data to my desktop. I then organized the
11 spreadsheets in two separate manners. The first set is organized by
12 visit date. The second is organized by IP address and then visit
13 date. I did not alter the content of the data in any way when
14 searching for the data, moving it from the SQL table to the Excel
15 spreadsheet, or while in the Excel spreadsheet. I moved the
16 information and organized it in two separate manners because it was
17 easier to read. I then emailed the metric data to my leadership at
18 ACIC as requested. The data is stored securely on our servers and is
19 only accessible to the other three web developers on my team. I have
20 no reason to believe anyone else would have modified the logs in any
21 way. This occurred before we were contacted by investigators
22 involved in this case, as ACIC was notified of the compromise of one
23 of our products in March 2010.

1 In this case, the ACIC document concerned was posted in
2 2008. I pulled the metric data tracking access to this document on
3 17 March 2010. The most recent access date listed in the metric data
4 is 16 March 2010. The data returned included view -- The data
5 returned included views -- excuse me, Your Honor, view hits on the
6 document up until the morning I ran the data query. The logs are
7 broken down by record key, IP address, and visit date. Specifically,
8 the metrics tell me the following about the user IP addresses who
9 opened the website containing the product with a product
10 identification number of RB-08-0617 in the web page format: A user
11 with the IP address 22.225.41.40 opened the web page on 1 December
12 2009, at 6:31 PM; a user with the IP address 22.225.41.40 opened the
13 web page on 29 December 2009, at 2:40 PM; a user with the IP address
14 22.225.41.40 opened the web page on 1 March 2010, at 6:40 PM; and a
15 user with the IP address 22.225.41.22 opened the web page on 7 March
16 2010, at 11:31 PM.

17 The data for these metrics is collected by our custom
18 software automatically when someone clicks on one of our links to use
19 our ACIC work product. This system captures the date -- excuse me,
20 Your Honor, the time, date, and IP address as well as which product
21 is being accessed and served out to the requester. We know this data
22 is accurate because there is no human intervention into the process

1 and because views are logged using specific codes and for specific
2 products.

3 Finally, while it is possible to make manual insertions in
4 metric data output, those insertions cannot be backdated or
5 overwritten. This means whatever output data the system produces
6 cannot itself be altered. Furthermore, at the time I pulled the
7 logs, I did not know to whom the IP addresses were attached or the
8 reasons for which the data was being pulled. I had neither the
9 motivation nor knowledge required to alter the document. At no point
10 prior to pulling the metric log data, while pulling the information,
11 or after securing it, did I ever alter the data in any way.

12 My Branch Chief forwarded my email with these metrics to
13 Mr. Winston Budram, S-6 and Chief Information Officer of the 902nd MI
14 Group. Mr. Budram forwarded the metrics to investigators after they
15 contacted our office. Prosecution Exhibit 63 for Identification is
16 the paper copy of these logs. Prosecution Exhibit 63 for
17 Identification is a printout of the complete logs that I pulled. I
18 put the title "Views of ACIC Product RB08-06. -- or excuse me,
19 0617.asp" on the top of the Excel spreadsheet. The title is based on
20 the ACIC product identification number and the format of the
21 document. On the left side of every page are the logs that I pulled
22 and organized by visit date. On the right side of every page are the
23 logs that I pulled and organized by IP address and then visit date.

1 I believe the information on the top of the page "Views of ACIC
2 Product RB08-0617.asp"; "Record Key"; "IP Address"; and "Visit Date",
3 which is the same as the title and heading information on the
4 spreadsheets that I pulled, was automatically produced by Excel when
5 the spreadsheets were printed.

6 I am the custodian of the records marked as PE 63 for ID
7 and an employee -- and an employee familiar with the manner and
8 process in which these records are created and maintained, by virtue
9 of my duties and responsibilities. PE 63 for ID was made at or near
10 the time of the occurrences of the matters set forth by or from
11 information transmitted by, people with knowledge of these matters.
12 PE 63 for ID was kept in the course of regularly conducted business
13 activity. It was the regular practice of the business activity to
14 make the records. The records marked as PE 63 for ID are a true,
15 accurate, and complete copy of the original documents.

16 Your Honor, the United States moves to admit PE 63 for ID
17 as PE 63.

18 ADC[MAJ HURLEY]: No objection, ma'am.

19 MJ: All right. Prosecution Exhibit 63 is admitted. May I see
20 it, please? Thank you.

21 TC[MAJ FEIN]: Ma'am, Stipulation of Expected Testimony of Mr.
22 Sean Chamberlin dated 9 June 2013.

1 It is hereby agreed by the Accused, Defense Counsel, and
2 Trial Counsel, that if Mr. Sean Chamberlin were present to testify
3 during the merits and pre-sentencing phases of this court-martial,
4 he would testify substantially as follows:

5 I am a Systems Administrator for the S-6 shop of the 902nd
6 Military Intelligence (MI) Group on Fort Meade, Maryland. The 902nd
7 MI Group performs counterintelligence functions. My section is
8 responsible for providing IT support for all unit servers. In this
9 capacity, I build new servers and maintain old ones. I have worked
10 in this capacity for 10 years. Before that I was an active duty
11 military for 9 years and was a Staff Sergeant when I left the Army.
12 For the last 5 of my 9 years of active duty service, I had the
13 Military Occupational Specialty (MOS) of 33W, which is Inter -- which
14 is Intercept Electronic Warfare Systems Repair. In that capacity, I
15 was a systems administrator. To fulfill my current function, I have
16 received Security Plus training and have certifications in numerous
17 Microsoft server types. I also hold a Bachelor's degree in
18 Information Systems from the University of Phoenix.

19 I first became involved in the present case in July of
20 2011, when my supervisor Mr. Robert Conner, the Site Lead for
21 Information Technology at the 902nd MI Group, requested that I pull
22 Microsoft Internet Information Services (MIIS) web server audit event
23 logs for the contacting IP addresses 22.225.41.22 and 22.225.41.40

1 between the dates November 2009 and May 2010. MIIS are application
2 logs that are specific to the web server. Audit logs are a record of
3 the activity that occurs on the server and enable system
4 administrators like me to track what users do on the website. Audit
5 logs contain data that is automatically written to them on a daily
6 basis. Here, the audit logs record file activity on a web server
7 from the United States Government computer assigned to the IP address
8 199.32.48.154, is a computer dedicated to processing classified
9 information at the Secret level. This is the IP address for the ACIC
10 website on SIPRNET.

11 This data shows what IP addresses accessed our system
12 within that date range. An IP address is part of the Transmission
13 Control Protocol/Internet Protocol (TCP/IP). A protocol is the
14 standard language used to communicate over a network. TCP/IP is the
15 most common "language" that computers use to communicate over the
16 Internet. An IP address is the method of identifying a specific
17 computer on a network.

18 An IP address allows us to know which computer on a given
19 network accessed our server. In this case, I pulled 18 log files for
20 the above IP address and date range. The files are named the
21 following: ex09119.log; ex091201.log; ex091214.log; ex091217.log;
22 ex091221.log; ex091229.log; ex100207.log; ex100209.log; ex100211.log;
23 ex100214.log; ex100301.log; ex100302.log; ex100308.log; ex100315.log;

1 ex100316.log; ex100317.log, which is the automatic naming convention
2 of Microsoft based on date. The files display in text format. The
3 files contain 86 entries for the IP address of 22.225.41.22 and 28
4 entries for the IP address of 22.225.41.40. The first entry for
5 22.225.41.22 or 22.225.41.40 is 19 November 2010.

6 These logs are on our external web server, which is one of
7 the servers I am responsible for maintaining. The web server and the
8 logs are located in what is commonly referred to as the "DMZ", which
9 is the area between our internal system and the SIPRNET. I pulled
10 the data using a search window and searching the IP address for the
11 given date range. Then I searched for the two requested IP
12 addresses. I then put the files into an internal investigation
13 folder and had them burned to a disc. I looked at the disc to verify
14 that they were the logs that I pulled.

15 I am familiar with these logs because of my work as a
16 systems administrator. After I pulled the logs, they were burned
17 onto a rewritable disc by another individual. I reviewed the
18 contents of the disc to ensure it contained the logs I pulled. The
19 disc labeled "Log Files 902nd MI 2011-0006" contain the logs that I
20 pulled. Prosecution Exhibit 64 for Identification is a copy of this
21 disc. I attested to the authenticity of these logs on 21 June 2012,
22 Bates number: 00449439. I pulled the logs from the server and did
23 not alter the content of the logs in any way. I have no reason to

1 believe anyone else would have modified the logs in any way while
2 they are on the server as permissions to the "DMZ" are very limited.

3 Your Honor, the United States moves to admit Prosecution
4 Exhibit 64 for Identification as Prosecution Exhibit 64.

5 ADC[MAJ HURLEY]: Ma'am, we have no objection to that; but may
6 I have a second to speak with Major Fein?

7 MJ: Yes.

8 [There was a brief pause while the assistant defense counsel
9 consulted with the trial counsel.]

10 TC[MAJ FEIN]: Your Honor, the United States requests a brief in
11 place recess.

12 MJ: Go ahead. I'm not actually recessing the Court. I'm just
13 going to let you do what you need to do.

14 TC[MAJ FEIN]: Yes, ma'am.

15 [There was a brief pause while the assistant defense counsel
16 consulted with the trial counsel.]

17 TC[MAJ FEIN]: Ma'am, I have retrieved Prosecution Exhibit 64
18 and consulted with defense counsel and there has been one
19 modification to the Stipulation of Expected Testimony. I handed the
20 court reporter PE 64 and I would direct the Court to Page 2. Your
21 Honor, the top of Page 2 at the end of the first paragraph or the
22 first partial paragraph, the date 19 November 2010 has been modified

1 to say 19 November 2009, and the accused's, Major Hurley's and Major
2 Fein's initials are annotated on that change.

3 MJ: All right. Major Hurley, does the defense agree with this
4 change?

5 ADC[MAJ HURLEY]: Yes, ma'am.

6 MJ: PFC Manning?

7 ACC: Yes, Your Honor.

8 ATC[CPT von ELTEN]: Ma'am, the United States calls Matthew
9 Hosburgh.

10 MJ: May I see Prosecution Exhibit 64? I think I still need to
11 admit that. Is that better done at a recess?

12 TC[MAJ FEIN]: Yes, ma'am, 64.

13 MJ: Prosecution Exhibit 64 for Identification is admitted.

14 Excuse me, Captain von Elten, who is the next witness?

15 ATC[CPT von ELTEN]: Matthew Hosburgh, ma'am.

16 **STAFF SERGEANT MATTHEW HOSBURGH, U.S. Marine Corps Reserve, was**
17 **called as a witness for the prosecution, was sworn, and testified as**
18 **follows:**

19 **DIRECT EXAMINATION**

20 **Questions by the assistant trial counsel [CPT von ELTEN]:**

21 Q. For the record, you're Sergeant Matthew Hosburgh of Denver,
22 Colorado?

23 A. Staff Sergeant, sir.

1 Q. Where do you work?

2 A. I'm currently working for an oil and gas company in Denver,
3 Colorado.

4 Q. And what do you do there?

5 A. I do their IT security.

6 Q. And what does that entail?

7 A. It entails monitoring the networks as well as threat and
8 vulnerability research.

9 Q. And how long have you been in this position?

10 A. I've been there for about 2 months now, sir.

11 Q. And what was your position prior to that?

12 A. Prior to that I was a government contractor where I did
13 basically the same type of work for citizenship and immigration.

14 Q. And what department does citizenship and immigration fall
15 under?

16 A. Department of Homeland Security.

17 Q. And how long were you there?

18 A. I was there for 3 years.

19 Q. And how was the work similar; what did you do?

20 A. Same type of thing, monitoring networks, looking for
21 threats, vulnerabilities and, yeah, that's basically it.

22 Q. And what did you do prior to that?

23 A. Prior to that I was on active duty in the Marine Corps.

1 Q. And for how long were you on active duty?

2 A. For 8 years.

3 Q. What was your MOS in the Marine Corps?

4 A. I was a 2651.

5 Q. What is that?

6 A. It's a Special Intelligence System Administrator.

7 Q. What training did you receive in that position?

8 A. I received numerous military schools as well as civilian IT
9 security related courses.

10 Q. And what did those -- What kind of things did that
11 schooling teach you?

12 A. Everything from system administration, servers, networks,
13 to security, basic security and things of that nature.

14 Q. What kind of work did being a 2651 entail?

15 A. Kind of ran the gamut as far as anything from, you know,
16 managing servers and network equipment to information assurance and
17 security accreditation and threat and vulnerability research.

18 Q. What kind of systems did you work on?

19 A. Worked primarily on classified network systems, servers and
20 networks of that nature.

21

22

1 Q. And what kind of work did you do on those classified
2 systems?

3 A. Managed the systems, provided access to our users as well
4 as I was in charge of the security of those systems. So we had to
5 basically apply policy to those systems as well as manage the
6 vulnerabilities and risks that the systems faced.

7 Q. What year did you leave active duty?

8 A. 2010.

9 Q. What is your current military status?

10 A. I'm a reservist.

11 Q. When did you join the reserves?

12 A. I joined in July of 2012.

13 Q. What do you do in the reserves?

14 A. I am a -- I have the same MOS so I do the same type of
15 general work, but I'm currently working as a network analysis or I'm
16 a network analyst.

17 Q. Let's talk a little bit about a report you wrote. Where
18 were you stationed in late 2009 early 2010?

19 A. I was in Stuttgart, Germany.

20 Q. And what were you doing there?

21 A. I had been stationed there, started out in 2006.

22 Q. Do you remember attending a conference?

23 A. Yes, sir.

1 Q. What was the conference called?

2 A. It was, the title of the conference was called Here Be
3 Dragons.

4 Q. And who hosted the conference?

5 A. It was hosted by the Chaos Computer Club.

6 MJ: What dragons?

7 WIT: Here Be Dragons.

8 Q. How else is the Chaos Communication Congress known?

9 A. It's either known as CCC or C3.

10 Q. How did you know about C3?

11 A. Through my research that I was doing just trying to stay
12 ahead of security threats, I noticed that the conference was
13 basically in our neck of the woods and that's how I found out about
14 it.

15 Q. And where was the conference?

16 A. It was in Berlin.

17 Q. And when did the conference occur?

18 A. It was roughly the 26th of December 2009, through the 30th,
19 if I remember correctly.

20 Q. What is the C3 conference?

21 A. So the C3 conference essentially, what it actually stands
22 for is the Chaos Communication Congress. It's a conference that
23 basically combines or brings together people throughout the hacker

1 community, security researchers and just random people, brings them
2 all together and they talk about various topics ranging from
3 security, hacking, political issues. I mean you name it and it's
4 probably there.

5 Q. And how often is it held?

6 A. It's held yearly.

7 Q. And why did you attend?

8 A. I attended, it was an opportunity to not only attend a
9 conference that could potentially I guess show some security
10 vulnerabilities that we might be able to apply to our command, but it
11 was also local and we had some extra funds to go travel and go to
12 that conference, so ----

13 Q. How many days was the conference?

14 A. I believe it was 5 days.

15 Q. And how many days did you attend?

16 A. I was there for 4 days. One day was for travel.

17 Q. How many people attended the conference?

18 A. Roughly about 3 to 5,000 I believe.

19 Q. What kind of facility hosted the conference?

20 A. It was your standard just conference center, multiple rooms
21 that could host various talks and presentations.

22

23

1 Q. And where were the featured presentations given?

2 A. The featured presentations? Those were reserved for the
3 bigger rooms of the conference center.

4 Q. And about how big was the bigger room?

5 A. How many people?

6 Q. How many people did it seat?

7 A. How many people? Okay. Roughly maybe 5 to 1,000 people.

8 Q. 500 to 1,000 people?

9 A. I'm sorry. Yeah, 500, yes, sir.

10 Q. What were some of the main presentations?

11 A. Some of the main presentations I recall offhand they were
12 talking about, one of the big ones was WikiLeaks, they talked about
13 Net Neutrality, Tor came up. They talked about various topics
14 related to GSM cellphone networks. A few others, I just can't recall
15 off the top of my head.

16 Q. And what language were the talks given in?

17 A. They were given in English and some of them were also in
18 German.

19 Q. Let's talk a little bit about the Net Neutrality
20 presentation. How many speakers gave that presentation?

21 A. I recall I believe there was two speakers for that one.
22 One main presenter, though.

23

1 Q. How long did the presentation last?

2 A. That was about an hour if I remember that one right.

3 Q. And what is Net Neutrality?

4 A. Well, Net Neutrality, the way I see it is a way to keep the
5 Internet open and free as far as preventing any issues or ISPs,
6 Internet service providers from regulating it. So their issue or
7 their whole talk was about we need to keep the Internet open and free
8 instead of having various tiers of regulation on the Internet.

9 Q. And what was the purpose of the presentation?

10 ADC[MAJ HURLEY]: Objection, ma'am. Hearsay.

11 MJ: Uhm ----

12 ATC[CPT von ELTEN]: Your Honor, I will ----

13 MJ: Establish a foundation and his personal knowledge.

14 ATC[CPT von ELTEN]: It goes to the effect on listener or on a
15 document we are going to offer as evidence.

16 MJ: What was the question?

17 ATC[CPT von ELTEN]: What was the purpose of the presentation?

18 MJ: Ask for the foundation of knowledge. How does he know
19 that?

20 [END OF PAGE]

21

1 **Questions continued by the assistant trial counsel[CPT von ELTEN]:**

2 Q. How do you know that?

3 A. How do I know what the purpose is? Because there's a
4 summary of the talk before I went and I had done some research about
5 that topic.

6 Q. And where did you do your research?

7 MJ: Overruled.

8 Q. Are where did you do your research?

9 A. Research just on the open Internet.

10 Q. And what was the purpose of the presentation?

11 A. It was more about awareness, I remember that one. It was
12 in English. The speaker was making a case for global open Internet,
13 but specifically for some of the issues coming up in France at the
14 time.

15 ADC[MAJ HURLEY]: Again, ma'am, hearsay. He's just repeating
16 what the presenter told him.

17 MJ: What are you offering it for?

18 ATC[CPT von ELTEN]: I'm offering it for, it goes to explain why
19 he wrote his report.

20 MJ: Overruled.

21 **[END OF PAGE]**

22

1 Questions continued by the assistant trial counsel [CPT von ELTEN]:

2 Q. Let's talk about the WikiLeaks presentation. What room was

3 that in?

4 A. It was in one of the larger conference rooms.

5 Q. About how many people attended the talk?

6 A. That one was probably closer to 1,000. I remember it being

7 pretty full.

8 Q. Who gave the talk?

9 A. The talk was given by Julian Assange.

10 Q. And how long did Mr. Assange speak?

11 A. It was about an hour or so.

12 Q. And how was the talk relevant to your work at the time in

13 the Marines?

14 A. It was relevant in the sense that I worked with classified

15 information at the time.

16 Q. And what was the purpose of the talk?

17 A. The main purpose of the talk was really to explain what

18 WikiLeaks was and the launch of their, basically their new site is

19 what I got from it. They talked about what their intentions were and

20 then basically what the system provided.

21 Q. And what were their intentions?

22 A. The intentions were they basically were eliciting support

23 from the audience and then I guess anybody listening to the

1 conference to leak any type of information, not only classified
2 information but proprietary trade secrets, anything of that nature.

3 ATC[CPT von ELTEN]: I am retrieving Prosecution Exhibit 43 for
4 Identification, handing it to the witness.

5 Q. Do you recognize the document I've handed you?

6 A. Yes, sir.

7 Q. What is it?

8 A. This is my trip report, or after action report I wrote
9 after I came back from the conference.

10 Q. When did you write it?

11 A. I wrote it approximately a week after.

12 Q. How do you know it's your report?

13 A. Well, it has my name on it and it's in the format I'm used
14 to.

15 Q. Where did you submit it?

16 A. Where did I submit it? I submitted it to basically my
17 chain of command when I got back.

18 ATC[CPT von ELTEN]: Retrieving Prosecution Exhibit 43 for
19 Identification from the witness. Retrieving Prosecution Exhibit 85.
20 I am handing Prosecution Exhibit 85 to the witness.

21 Q. Would you please take a minute to review Line 12? I
22 believe it's on the second page.

23 [There was a brief pause while the witness reviewed the exhibit.]

1 A. Okay.

2 Q. How often were your reports posted online?

3 A. How often were they posted? Good question because we had
4 just implemented a new system, so we didn't really have a frequency
5 of necessarily posting them, a standard procedure for that. Since
6 that new system, it was kind of became a de facto practice of posted
7 after the trip.

8 Q. And where were they posted?

9 A. We posted to a Sharepoint portal.

10 Q. And what was the address of that Sharepoint portal?

11 A. It was something along the lines of MFE.USMC.smil.mil. And
12 then your various section be denoted by a G representing and then a
13 number.

14 Q. Is that approximately the address listed in Line 12?

15 A. Yes, sir.

16 ATC[CPT von ELTEN]: Retrieving Prosecution Exhibit 85. Your
17 Honor, the United States would move to enter Prosecution Exhibit 43
18 for Identification into evidence.

19 ADC[MAJ HURLEY]: No objection, ma'am.

20 MJ: May I see it, please? Prosecution Exhibit 43 for
21 Identification is admitted.

22

23

1 **Questions continued by the assistant trial counsel [CPT von ELTEN]:**

2 Q. Let's talk a little bit about this report. How did you
3 organize the report?

4 A. I organized it basically chronologically so the talks I
5 went to, that's the first talk, and then so on and so forth
6 throughout the report.

7 Q. What information did you put in the summary section?

8 A. The summary was generally a description basically from the
9 conference itself, and then if there's anything I needed to add to
10 make it, to make it more -- to it make more sense to my chain of
11 command.

12 Q. And what was, how did you construct the sections?

13 A. The analysis was based off of some of the analytical work I
14 had done in our section and also trying to make that analysis fit
15 within our organization basically.

16 Q. What was the purpose of the counter measure section?

17 A. That was basically -- The purpose behind that was to
18 identify if there was a potential threat, security threat that maybe
19 we were vulnerable to, and then to see if we could actually fix it,
20 fix that vulnerability.

21 Q. What was the purpose of drafting this report?

1 A. To basically summarize the trip so I could show the command
2 actually what I did there, and then also to raise some awareness as
3 far as, you know, what the issues I found there were.

4 ATC[CPT von ELTEN]: Thank you. No further questions, Your
5 Honor.

6 MJ: Cross-examination.

7 ADC [MAJ HURLEY]: Yes, ma'am.

CROSS-EXAMINATION

9 Questions by the assistant defense counsel [MAJ HURLEY]:

10 Q. Staff Sergeant Hosburgh, good morning.

11 A. Good morning, sir.

12 Q. When it comes to the document that you were just discussing
13 with Captain von Elten, that's a document that you wrote?

14 A. Yes, sir.

15 Q. By yourself?

16 A. Yes, sir.

17 Q. And it appears to be a reflection of your time spent at
18 this conference that you discussed with Captain von Elten?

19 A. Yes, sir.

20 Q. It was rendered chronologically?

21 A. Yes, sir.

22 Q. The first thing that you covered was net neutrality?

23 A. Yes, sir.

1 Q. Then WikiLeaks?

2 A. Yes, sir.

3 Q. Then you'll forgive my computer ignorance, exposing crypto

4 bugs through reverse engineering?

5 A. Yes, sir.

6 Q. And that was followed by some other more technical topics

7 of the conversation?

8 A. Yes, sir.

9 Q. And you started with Paragraph 1, as you were writing you

10 started with Paragraph 1?

11 A. Yes, sir.

12 Q. And you wrote your report chronologically as well?

13 A. Chronologically, yes, sir.

14 Q. In your discussion of Net Neutrality you mentioned

15 terrorist use of the Internet?

16 A. Yes, sir.

17 Q. And you mentioned that in Paragraph 1?

18 A. Yes.

19 Q. In your discussion of WikiLeaks you did not mention

20 terrorism or terrorist use of that site, correct?

21 A. Correct, sir.

22 Q. Now, let's talk about WikiLeaks; the presenter you said was

23 Julian Assange?

1 A. Yes, sir.

2 Q. And he did not mention terrorism in his presentation?

3 A. Not that I can recall, sir.

4 Q. Or a desire to help terrorists?

5 A. No, sir.

6 Q. That would have been reflected in your report?

7 A. Yes, sir.

8 Q. WikiLeaks was focused on the public and the public's access

9 to information?

10 A. Yes, sir.

11 Q. Ensuring openness?

12 A. Yes, sir.

13 Q. And keeping the public well informed?

14 A. That's what he said, yes, sir.

15 Q. And it wasn't exclusively focused on the United States?

16 A. It wasn't. They did mention, there was more of an emphasis

17 for classified information, however.

18 Q. But it wasn't exclusively focused on classified

19 information?

20 A. Correct, sir.

21 Q. They were interested in trade secrets?

22 A. Yes, sir.

23 Q. And other corporate information?

1 A. Yes.

2 Q. So you mentioned, let's go back to that Paragraph 1,
3 terrorists and the use of the Internet. You indicated that
4 terrorists use the Internet?

5 A. Yes, sir.

6 Q. To communicate with each other?

7 A. Yes.

8 Q. You indicated that an open Internet allows for hidden
9 communication?

10 A. I believe I recall that, sir.

11 Q. It's sort of a, you created this idea that an open network
12 allows for terrorist communication on the Internet.

13 A. Yes, sir, I did.

14 Q. Their communication with each other?

15 A. Yes.

16 Q. From one terrorist to another, and then potentially from
17 there to yet another terrorist?

18 A. Yes, sir.

19 Q. And the point as I understood it -- now, when there was a
20 discussion of Net Neutrality, did the individual giving the Net
21 Neutrality talk discuss terrorism?

22 A. No, sir. That was more of an analytical piece.

1 Q. Right. And what you were trying to show in your analysis
2 was essentially a cost benefit, right?

3 A. Trying to show that if it was open, that communication
4 could still exist, yes, sir.

5 MJ: What communication?

6 WIT: Communication between the terrorists. Generally speaking,
7 that's a very general term.

8 Q. Right. And your point was that applying filters to the
9 Internet to make it less unneutral, to use that expression, that
10 would -- you benefit what you get from it with limiting terrorist
11 communication against the costs associated with making it less
12 neutral?

13 A. Not necessarily a cost in my mind. They did talk about
14 costs. It was more along the lines of if it's so restricted, they'll
15 just find another communication medium.

16 Q. And in your report you did mention that that, this making
17 the net less neutral would cost money?

18 A. Yes, sir.

19 Q. And you indicated also in your report that there would be
20 the potential for it impinging on the free flow of speech?

21 A. Yes, sir.

1 Q. In your report what you didn't say is that terrorists used
2 the Internet to gather information. Is that idea reflected in your
3 report?

4 A. Not specifically, but maybe more I was implying that, yes,
5 sir.

6 Q. And you didn't say that they used the Internet to gather
7 information from open source reporting?

8 A. Not specifically.

9 Q. And you didn't say that they used the Internet or they use
10 any specific website for this open source collection?

11 A. Correct.

12 Q. The thrust of your point as you were talking about Net
13 Neutrality was terrorists and hiding their communication on the
14 Internet?

15 A. Yes, sir, generally.

16 Q. You were, uhm, You were involved in military intelligence
17 while you were on active duty in the Marine Corps?

18 A. Yes, sir.

19 Q. And how long were you an Intel NCO when you were in the
20 Marine Corps?

21 A. Approximately about 3 years.

22 Q. And you're familiar with the term intelligence gaps?

23 A. Yes, sir.

1 Q. And an intelligence gap is something we don't know?

2 A. More or less, yes, sir.

3 ADC[MAJ HURLEY]: No further questions, ma'am.

4 MJ: Redirect?

5 ATC[CPT von ELTEN]: Nothing, ma'am.

6 MJ: All right. Temporary or permanent excusal?

7 ATC[CPT von ELTEN]: Temporary.

8 **[The witness was temporarily excused, duly warned, and withdrew from**
9 **the courtroom.]**

10 MJ: I do have a question for the government. I'm looking at
11 exhibit list, I'm looking at Prosecution Exhibits 43 and 44, which
12 appear to be the same thing, one is redacted and one is not.

13 TC[MAJ FEIN]: Yes, ma'am.

14 MJ: I have only seen a motion for admission for Prosecution
15 Exhibit 43. Is that the intent?

16 TC[MAJ FEIN]: The intent was to use it as a substitute, yes,
17 ma'am.

18 MJ: Okay.

19 TC[MAJ FEIN]: Ma'am, the Stipulation -- read a Stipulation of
20 Expected Testimony for Lieutenant Commander Thomas Hoskins, United
21 States Navy Reserve dated 10 June 2013.

22 MJ: What exhibit is that?

1 TC[MAJ FEIN]: Yes, ma'am. This is Prosecution Exhibit 111
2 Bravo, the unclassified redacted version.

3 It is hereby agreed by the Accused, Defense Counsel, and
4 Trial Counsel, that if Lieutenant Commander Thomas Hoskins, United
5 States Naval Reserve, were present to testify during the merits and
6 pre-sentencing phases of this court-martial, he would testify
7 substantially as follows:

8 I am a Lieutenant Commander in the United States Navy
9 Reserves. I am a Reservist. I am currently assigned to United
10 States Pacific Fleet. In 1997, I obtained a Bachelors of Science in
11 Marine Transportation and a BS in Environmental Science from the
12 Massachusetts Maritime Academy. In 2007, I obtained a Masters of
13 Business Administration from the Naval Postgraduate School.

14 I entered active duty in the United States Navy in 1998 and
15 left active duty in 2009. While I was on active duty, I was an F-18
16 pilot. I joined the United States Navy Reserves in 2009. I have
17 logged over 1700 hours as a pilot, to include approximately 320 hours
18 of combat flight time. I have completed the requisite training, to
19 include 6 weeks of ground school; 1 year of primary training for
20 preliminary flight instruction; 1 year of specialty training after I
21 selected intermediate training; and 8 months of advanced training in
22 weapons, formation flying, and carrier landing. After completing
23 that training, I was selected to fly F-18s and received my wings.

1 Thereafter, I completed 1 year of F-18 training where I received
2 additional training in weapons usage, high and low level deployment
3 of bombs, and carrier flying. As a pilot, I have served as an F-18
4 division combat lead. I have operated weapons while deployed in
5 Afghanistan and conducted reconnaissance while deployed in Iraq. I
6 have deployed three times in 2001 through 2002, 2003, 2004, and 2008,
7 and in support of Operation Enduring Freedom and Operation Iraqi
8 Freedom. I have also served as a flight instructor for 3 years.

9 As a reservist, I currently work on planning, which
10 involves concept plans, operations plans, and execution orders.
11 After leaving active duty in 2009, I began to work at Booz Allen as a
12 contractor. Today, I work as a maritime planner for Booz Allen.
13 Previously, I worked for Booz Allen on matters related to United
14 States Northern Command USNORTHCOM Maritime Division. Currently at
15 Booz Allen, I work on USNORTHCOM J-6 security cooperation. In my
16 work for the J-6, I work on security cooperation between the United
17 States and Mexico. Specifically, I work on command and control of
18 communications, computers, and information, C4I.

19 I have worked with classified information in my career with
20 Booz Allen and as an active duty and reservist pilot. As a pilot, I
21 worked with classified information daily for flights, mission
22 planning, mission briefing, and certain information about the planes.
23 Previously, I worked with classified information in my work at Booz

1 Allen in the J-5 pertaining to homeland defense plans, and planning
2 and development of specific plans for maritime activities, to include
3 work with the United States Coast Guard. I have received a one and
4 one half hour PowerPoint training on classified procedures and spent
5 about an hour quarterly on training. I have received derivative
6 classification training. I have also used classification guides in
7 my work; I have used the USNORTHCOM classification guide to determine
8 the classification status of the information. I did not consider the
9 following when making any determination: One: What, if any, of this
10 material was included in open source reporting and; two, what, if
11 any, of this material was available in unclassified publications,
12 such as Army Regulations or Field Manuals.

13 In 2001, I was mobilized to United States Central Command,
14 USCENTCOM. I was mobilized to the J-5 planning office, Yemen Branch.
15 While in this position, I worked on country-to-country action plans
16 and worked with the United States Embassy in Yemen and the Yemeni
17 military on plans and security cooperation.

18 While mobilized at USCENTCOM, I was tasked through the
19 Tasking Management Tool to conduct a review for classified
20 information. The J-5 office plans through the director, who receives
21 taskers. The director passed the tasker to me. I received the
22 submitted documents from the USCENTCOM JAG office. My assignment

1 required me to determine whether the submitted documents contained
2 classified information at the time they were compromised.

3 In my capacity as the person tasked with reviewing the
4 submitted documents, I reviewed the documents for classified
5 USCENTCOM J-5 equities. I reviewed approximately 40 documents
6 pertaining to *United States v. Private First Class Bradley Manning*,
7 which the prosecution provided to USCENTCOM. The documents provided
8 by prosecution, submitted documents, included, among others,
9 documents from the Combined Information Data Network Exchange
10 Afghanistan, CIDNE-A, and other documents related to the AR I -
11 investigation of the Farah incident.

12 When conducting the review, I looked at USCENTCOM
13 classification guides and Executive Order 13526 and its predecessors.
14 I reviewed each submitted document line by line for classified
15 information by applying the USCENTCOM classification guides. I
16 annotated the basis for each classification decision in my sworn
17 declaration dated 21 October 2011, Bates Numbers: 00527378 through
18 00527397. Prosecution Exhibit 87 for Identification is this
19 declaration. All documents noted in the declaration contained
20 classification markings and were properly classified at least at the
21 Secret level, hereinafter "reviewed documents".

22 Based on my military experience, I had prior familiarity
23 with the types of documents and information I reviewed. During my

1 deployments, I worked with similar classified information pertaining
2 to mission planning, mission details, weapons systems, and maps of
3 troop locations.

4 The reviewed documents consisted of documents collected
5 from CIDNE-A and other documents related to the Farah investigation.
6 The reviewed documents contained military information, to include
7 military plans, weapons systems, or operations; significant activity
8 reports, SIGACT; operational code words when identified with mission
9 operations; SIGACTs related to fact of and general type of
10 improvised explosive device (IED) attack on specific location on
11 specific date, which would have been known by the enemy that was the
12 subject of that report; participating units, and details of movements
13 of US friendly forces; concept of operations (CONOPS), Operation
14 Orders (OPORD), or Fragmentary Orders (FRAGOs); vulnerabilities or
15 capabilities of systems, installations, infrastructures, projects,
16 plans, or protection services relating to national security; and
17 limitations and vulnerabilities of US forces in combat area. CONOPS
18 are properly classified as confidential upon execution and can be
19 declassified 1 year after completion. Participating units, including
20 types, vulnerabilities, locations, quantities, readiness status,
21 deployments, redeployments, and details of movement of U.S. and
22 friendly forces in operations can be properly declassified upon
23 execution.

1 I reviewed and determined that 21 SIGACTs from CIDNE-A
2 contained classified information according to the classification
3 guides and my knowledge and experience. These reviewed SIGACT
4 reports from CIDNE-A were all marked as Secret. The reviewed SIGACTs
5 from CIDNE-A contained multiple forms of military information, to
6 include information related to deployed -- deploying quick response
7 forces and code words, reported the effectiveness of IED attacks,
8 which would be known to the enemy that was the subject of those -- of
9 that report, report the locations of IED attacks, which would be
10 known to the enemy that was the subject of that report, identified
11 IED tactics, techniques and procedures (TTPs) for responding to IED
12 attacks, identified TTPs for identifying and neutralizing IEDs,
13 friendly action reports of finding and clearing caches, weapons
14 systems and capabilities, sources and methods of Intelligence
15 engagement, rules of engagement, CONOPS, descriptions of United
16 States forces, TTPs for mission execution, anticipated enemy
17 reaction, flexible deterrent options, code words, assistance by
18 local foreign nationals in locating suspects, and details of enemy
19 attacks. CONOPS are properly classified as Confidential upon
20 execution and can be declassified 1 year after completion.
21 Participating units, including types, vulnerabilities, locations,
22 quantities, readiness status, deployments, redeployments, and details
23 of movement of U.S. and friendly forces in operations can be properly

1 declassified upon execution. The 21 CIDNE-A reports that contained
2 J-5 equities are located in Appellate Exhibit 501 and have been --
3 and have the Bates Numbers of 00377846 through 00377846 [sic] and
4 00377888 through 00377910. These CIDNE-A reports are contained
5 within PE 89 for Identification.

6 Additionally, I reviewed the AR 15-6 investigation into a
7 military operation that occurred in Farah province, Afghanistan on or
8 about 4 May 2009. The AR 15-6 investigation into the Farah incident
9 was focused on investigating the circumstances surrounding a large-
10 scale civilian casualties (CIVCAS) incident. The incident occurred
11 in Gharani, which is a village in Farah Province, Afghanistan. As
12 noted in PE 90 for ID, I found that 13 of the Farah investigation
13 documents contained classified information I believed to be
14 sensitive and classified because the documents reveal TTPs, troop
15 movements, close air support, troops in combat (TIC), and graphics
16 showing troop movements. The Farah investigation documents that
17 contained J-5 Equities are located in AE 501 and have the Bates
18 numbers 00377425 through 00377480, 00377496, 00377627, 00377672
19 through 00377674, 0038029, 00378066, 00378071, 00378079, and
20 00378082. These documents are contained within PE 90 for ID.

21 I reviewed PE 66 for ID, a CD contained the video named B -
22 - "BE22 PAX.wmv". This video, Gharani video, is a video depicting
23 portions of a military operation in Farah Province, Afghanistan,

1 separately from the review I conducted for classified USCENTCOM J-5
2 equities.

3 While on active duty from 2007 through 2009, I was the
4 Strike Operations Officer responsible for planning, training, and
5 coordinating air wing and air-to-ground operations, which involved
6 coordinating with the Army ground liaison for mission coordination of
7 ground targets. In this capacity I reviewed video recordings of
8 combat missions. The videos captured flight operations using forward
9 looking infrared radar (FLIR). I reviewed the videos to ensure the
10 mission achieved its goal, hit the target, or reviewed the
11 information captured in a reconnaissance capacity. I reviewed
12 hundreds of these videos for validation. The Gharani video is
13 similar to the hundreds of videos I reviewed as a strike operations
14 officer.

15 I reviewed the Gharani video for sensitive military
16 information. I relied on my experience while conducting my review
17 for sensitive and classified information of the Gharani video. In
18 particular, I relied on my training and schooling, experience as a
19 flight instructor, experience with operating FLIR systems, and
20 experience reviewing videos that record imagery as presented in the
21 FLIR System. After my review of the above referenced documents for
22 USCENTCOM J-5 equities, I forwarded my conclusions and
23 recommendations to Deputy Commander, USCENTCOM, an Original

1 Classification Authority for his final determination as to whether
2 the information is properly classified.

3 Your Honor, the United States moves to admit Prosecution
4 Exhibit 87 for Identification as Prosecution Exhibit 87.

5 ADC[MAJ HURLEY]: No objection, ma'am.

6 TC[MAJ FEIN]: And the United States moves to admit Prosecution
7 Exhibit 66 for Identification as Prosecution Exhibit 66.

8 ADC[MAJ HURLEY]: No objection.

9 MJ: All right. Both exhibits are admitted. May I see
10 Prosecution Exhibit 66, please? All right. Prosecution Exhibits 66
11 and 87 are admitted.

12 TC[MAJ FEIN]: Ma'am, the United States requests a brief comfort
13 break.

14 MJ: All right. Any objection?

15 ADC[MAJ HURLEY]: No, ma'am.

16 MJ: Court is in recess until 20 minutes to 11.

17 [The court-martial recessed at 1036, 11 June 2013.]

18 [The court-martial was called to order at 1047, 11 June 2013.]

19 MJ: Court is called to order. Let the record reflect all
20 parties present when the Court last recessed are again present in
21 court. Is the government ready to call the next witness?

22 ATC[CPT von ELTEN]: Yes, ma'am. United States calls -- or
23 recalls Special Agent Mander.

1 SPECIAL AGENT MARK MANDER, U.S. Army, was recalled as a witness for
2 the prosecution, was reminded he was still under oath, and testified
3 as follows:

DIRECT EXAMINATION

5 Questions by the assistant trial counsel [CPT von ELTEN]:

6 Q. What is an IIR?

7 A. An IIR, that's an acronym that stands for Intelligence
8 Information Report.

9 Q. Who creates an IIR?

10 A. Various military intelligence-like organizations throughout
11 DoD as well as other agencies that deal with intelligence typically
12 create them.

Q. What are some examples of some of those agencies?

14 A. Army Military Intelligence, I know the FBI creates them,
15 NCIS, Air Force Office of Special Investigations. There's others.

Q. What types of information do they contain?

17 A. They contain all types of intelligence information relating
18 to counter terrorism information, things involving cyber activities,
19 as well as things about foreign militaries, things like that.

20 Q. And who writes them?

21 A. Typically individuals who are assigned in military
22 intelligence-like units or other intelligence type units that they
23 are designated to produce those types of reports.

1 Q. What is the basis of the content in an IIR?

2 A. The basis of the contents can be from sources, people that
3 provide information, it can be from other military or intelligence
4 organizations that actually observe activities for themselves and
5 they want to report it and that's essentially the mechanism the
6 intelligence community uses to share that information to other
7 elements.

8 Q. And that leads me to, how are they used broadly?

9 A. Well, there's a system, and I'm not super familiar with it
10 because I do criminal investigation, but generally speaking, someone
11 will produce a report that contains information or intelligence in
12 it. Other elements will then see that report and they can then
13 generate questions or follow-up questions, which then in turn produce
14 more reports.

15 Q. And how are they organized?

16 A. Can you be more specific?

17 Q. Is it like a fact summary, an analysis section, does it
18 vary?

19 A. It probably varies. It depends on the nature of the
20 information. Sometimes they're very short, maybe like just one or
21 two pages, sometimes they're very long, multiple pages and they, you
22 know, are kind of organized in, they usually have across the top like

1 a classification, there will be like a section that shows the
2 distribution of who got the report.

3 ADC[CPT TOOMAN]: Your Honor, we'll object based on personal
4 knowledge. The witness has said he's not familiar -- super familiar
5 with, to use his words, with this process so we would object on
6 personal knowledge.

7 A. I have seen many intelligence reports, but I don't know all
8 about the process of how they're created.

9 MJ: All right. Then stop asking about the process of how
10 they're created. Sustained.

11 Q. Where do you find IIRs?

12 A. There's two systems that I would use to look up IIRs. I
13 believe I can name the two systems here. One of them is called Hot-
14 R, H-O-T-R, and I don't know what that acronym stands for or if it
15 stands for anything, and then there's another system called the Multi
16 Media Manager, or they typically call it M3. I know that there's
17 others.

18 Q. What are some of the others?

19 A. I don't know the others, I just know that there are others
20 and that certain systems are based on like the organizations that
21 produce the reports. So, for example, the DoD reports, most of them
22 are in Hot-R, but if you want to see a report that was published by
23 another organization such as like the FBI, you would use M3.

1 Q. What search engine do you use to search for IIRs?

2 A. Intelink is one of the systems you can use to search.

3 Q. Do you use Intelink to search for IIRs?

4 A. Occasionally. Typically you can also log into one of the

5 systems I mentioned and then search for the IIRs that way as well.

6 Q. How are the results displayed in Intelink?

7 A. They're typically displayed kind of similar to what Google

8 looks like, it's somewhat similar.

9 Q. And when have you used IIRs?

10 A. Well, specifically in this case we did look for IIRs that

11 related to WikiLeaks, that keyword.

12 ATC[CPT von ELTEN]: Retrieving Prosecution Exhibit 99 for

13 Identification. Handing it to the witness.

14 MJ: Just a minute. Yes.

15 ADC[CPT TOOMAN]: Can I take a look at that?

16 ATC[CPT von ELTEN]: I'm sorry.

17 Q. What have I handed you, Agent Mander?

18 A. This appears to be an, excuse me, a declassified version of

19 an IIR specifically related to the WikiLeaks organization.

20 Q. And what is it numbered?

21 A. The number is IIR 5391001408.

22 Q. And what is the numbering convention based on your

23 experience?

1 A. The numbers are broken by spaces. The first number, 5, I
2 believe that indicates the general organization such as Army, Navy,
3 Air Force. The second number is a three digit number, 391, would be
4 the specific organization within that service. The fourth set or,
5 excuse me, third set of numbers, it's a four digit number, 0014,
6 would be the serial number of the report. And then the last two
7 numbers, 08, would be the year, the two digit year of the report.

8 Q. Would you please take a moment to review the report?

9 **[There was a brief pause while the witness reviewed the exhibit.]**

10 A. Okay.

11 Q. What's an overview of the content?

12 A. Generally speaking, the content of this IIR, it more or
13 less spells out that the WikiLeaks organization was established in
14 December 2006. Its point was to encourage the anonymous posting of
15 sensitive government and corporate documents. It describes the
16 organization as a uncensorable Wikipedia for untraceable mass
17 document leaking and analysis. And it also goes through, gives more
18 details as well as mentions a large number of what we call mirror
19 sites and it gives a long list of it.

20 MJ: Yes?

21 ADC[CPT TOOMAN]: We'll object based on relevance, Your
22 Honor.

1 ATC[CPT von ELTEN]: Your Honor, I'm just having him lay
2 foundation for the contents of the document, to authenticate it.

3 MJ: What's the relevance?

4 ATC[CPT von ELTEN]: The relevance of it?

5 MJ: Yes.

6 ATC[CPT von ELTEN]: I'm going to do that right now.

7 MJ: Well, why don't you tell me.

8 ATC[CPT von ELTEN]: Sorry, ma'am. The relevance is this
9 document, we have evidence was searched for by PFC Manning on
10 Intelink.

11 MJ: Overruled.

12 ATC[CPT von ELTEN]: Retrieving Prosecution Exhibit 99 for
13 Identification from the witness and handing the witness Prosecution
14 Exhibit 85.

15 MJ: That's 99 for Identification, right?

16 ATC[CPT von ELTEN]: Yes, ma'am. Agent Mander ----

17 MJ: Just a minute.

18 ATC[CPT von ELTEN]: I'm handing the witness Prosecution Exhibit
19 85.

20 MJ: For Identification?

21 ATC[CPT von ELTEN]: No, ma'am.

22 MJ: It's admitted?

23

1 Questions continued by the assistant trial counsel [CPT von ELTEN]:

2 Q. Please review Line 19.

3 MJ: Stop there for just a moment. I want to check with the
4 court reporter for the admissibility -- has Prosecution Exhibit 85
5 been admitted?

6 REPORTER: **[Indicating an affirmative response.]**

7 MJ: Go ahead.

8 Q. What was the -- Where was the search conducted reflected in
9 Line 19?

10 ADC[CPT TOOMAN]: Your Honor, the defense is going to object.
11 I believe that this exhibit is computer logs. This isn't a computer
12 expert. The government hasn't laid the foundation that this witness
13 can actually interpret the Intelink raw data.

14 MJ: Lay a foundation.

15 Q. Agent Mander, what is your position?

16 A. I'm a special agent with the Army CID, specifically the
17 computer crime investigative unit.

18 Q. And what type of computer crimes do you investigate?

19 A. Generally speaking, we investigate network intrusion type
20 incidents.

21 Q. Do you review computer logs as part of that work?

22 A. Yes, we do.

23 Q. And what is a log?

1 A. A log file is basically a list of activity that is recorded
2 typically by a computer or other types of systems that show what
3 activities occurred.

4 Q. And what kind of activities are recorded?

5 A. Typically the accesses to a computer system or perhaps
6 maybe traffic that transits Internet device such as a router or
7 switch, things like that.

8 Q. And how often do you review computer logs?

9 A. I used to review them all the time. Now not so much, but I
10 still see them fairly frequently.

11 Q. And how familiar are you with computer logs?

12 A. Fairly familiar.

13 MJ: Overruled.

14 ADC[CPT TOOMAN]: Your Honor, the defense would request the
15 opportunity to voir dire this witness about his knowledge of how
16 computer logs are created.

17 MJ: All right. I'll let you go ahead and do it. Are you
18 finished laying the foundation or do you have more foundation for
19 him?

20 ATC[CPT von ELTEN]: Just a little more, ma'am.

21 MJ: Go ahead.

22 Q. What was the source identified in Line 19?

INSTRUCTIONS FOR PREPARING AND ARRANGING RECORD OF TRIAL

USE OF FORM - Use this form and MCM, 1984, Appendix 14, will be used by the trial counsel and the reporter as a guide to the preparation of the record of trial in general and special court-martial cases in which a verbatim record is prepared. Air Force uses this form and departmental instructions as a guide to the preparation of the record of trial in general and special court-martial cases in which a summarized record is authorized.

Army and Navy use DD Form 491 for records of trial in general and special court-martial cases in which a summarized record is authorized. Inapplicable words of the printed text will be deleted.

COPIES - See MCM, 1984, RCM 1103(g). The convening authority may direct the preparation of additional copies.

ARRANGEMENT - When forwarded to the appropriate Judge Advocate General or for judge advocate review pursuant to Article 64(a), the record will be arranged and bound with allied papers in the sequence indicated below. Trial counsel is responsible for arranging the record as indicated, except that items 6, 7, and 15e will be inserted by the convening or reviewing authority, as appropriate, and items 10 and 14 will be inserted by either trial counsel or the convening or reviewing authority, whichever has custody of them.

1. Front cover and inside front cover (chronology sheet) of DD Form 490.
2. Judge advocate's review pursuant to Article 64(a), if any.
3. Request of accused for appellate defense counsel, or waiver/withdrawal of appellate rights, if applicable.
4. Briefs of counsel submitted after trial, if any (Article 38(c)).
5. DD Form 494, "Court-Martial Data Sheet."
6. Court-martial orders promulgating the result of trial as to each accused, in 10 copies when the record is verbatim and in 4 copies when it is summarized.
7. When required, signed recommendation of staff judge advocate or legal officer, in duplicate, together with all clemency papers, including clemency recommendations by court members.

8. Matters submitted by the accused pursuant to Article 60 (MCM, 1984, RCM 1105).
9. DD Form 458, "Charge Sheet" (unless included at the point of arraignment in the record).
10. Congressional inquiries and replies, if any.
11. DD Form 457, "Investigating Officer's Report," pursuant to Article 32, if such investigation was conducted, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.
12. Advice of staff judge advocate or legal officer, when prepared pursuant to Article 34 or otherwise.
13. Requests by counsel and action of the convening authority taken thereon (e.g., requests concerning delay, witnesses and depositions).
14. Records of former trials.
15. Record of trial in the following order:
 - a. Errata sheet, if any.
 - b. Index sheet with reverse side containing receipt of accused or defense counsel for copy of record or certificate in lieu of receipt.
 - c. Record of proceedings in court, including Article 39(a) sessions, if any.
 - d. Authentication sheet, followed by certificate of correction, if any.
 - e. Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.
 - f. Exhibits admitted in evidence.
 - g. Exhibits not received in evidence. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.
 - h. Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel submitted at trial.